REPORT

OF THE

PROCEEDINGS IN AN ACTION

AGAINST

ROBERT SCOTT,

PROPRIETOR, PUBLISHER, AND EDITOR

OF

The Military Register,

FOR A

LIBEL ON COLONEL WARREN,

COMMANDING 27TH REGIMENT OF FOOT.

TAKEN IN SHORT HAND BY ALEXANDER FRASER.

To which are added,

MINUTES OF A COURT MARTIAL,

HELD AT VERSAILLES, IN NOVEMBER, 1815,

ON

CAPTAIN JOHN TUCKER,

THEN OF THE 27TH REGIMENT OF FOOT,

(On which the Libel is founded,)

FROM AN OFFICIAL COPY

OF

THE JUDGE ADVOCATE GENERAL.

London:

PRINTED FOR JAMES HARPER, No. 46, FLEET-STREET.

1817.

Printed by H. Bryer, Bridge-Street, Blackfriars.



INTRODUCTION.

IN submitting to the consideration of the public, a report of the proceedings in an affair, apparently more of individual than general interest, it seems necessary to say something of the motives, that have induced the publication. A short statement of facts will be sufficient for this purpose.

An officer of the 27th regiment, having been brought to a Court Martial, by Colonel Warren, his commanding officer, was found Guilty upon part of the Charges, and sentenced to be dismissed the service. The sentence of the Court, and the pleasure of the Prince Regent were promulgated to the army in the usual manner; and here it might have been supposed, the proceeding was terminated. Soon afterwards, however, there appeared in the MILITARY REGISTER, an obscure periodical work, a series of Libels, entitled a *Lego-Military Report*, casting imputations of the grossest nature upon the character and conduct of Colonel Warren, and the witnesses for the prosecution, and even questioning the propriety of the Sentence itself; and this Report was declared to be the impartial result of a studious investigation of the Minutes of the Court Martial, and of statements received upon both sides of the question.

To show the utter falsehood of such assertions, and to vindicate his own honour, and that of his officers, Colonel Warren brought an action for libel, against the Editor of the MILITARY REGISTER; adopting that mode of pro-

ceeding, in preference to indictment, as it afforded the defendant an opportunity of justifying his publication, by proving the truth of his statements. From such an investigation, however, conscious of his falsehood, the defendant shrunk, suffering judgment to go by default; and a Jury of London merchants in the Sheriffs' Court, awarded to the Plaintiff £500 damages.

Still, as many persons may have read the Libels, who have not heard of the penalty inflicted on the author, it has been thought advisable to lay the whole of the proceedings before the public, in order to demonstrate, that not the slightest foundation exists for the assertion of the libeller, that his calumnies are warranted by the Minutes of the Court Martial. Those minutes are here printed from an official copy, certified by the Assistant Judge Advocate General. On such a document no comment or explanation is necessary. The facts are before the public, who will judge for itself.

SECONDARY'S OFFICE, COLEMAN STREET,
Wednesday, 22nd January, 1817.

INQUISITION

BEFORE SAMUEL COLLINGRIDGE, ESQ.

JOINT SECONDARY,

AND A

SPECIAL JURY OF MERCHANTS.

WARREN *v.* SCOTT.

MR. SCARLETT. Does any body appear for the defendant? - [No person made answer.]

Mr. *R. G. Edwards*, (one of the attornies for the plaintiff) being questioned as to having given notice of the inquiry, observed, he gave the usual notice, but not that proceedings would commence precisely at the hour mentioned.

The defendant, although he did not answer Mr Scarlett's question, was either then in the Court, or came in immediately after.

Mr. *Platt* opened the pleadings: he stated, that Lemuel Warren was the plaintiff, and that Robert Scott was the defendant; and that the declaration set forth two libels, which have been printed and published by the defendant, reflecting upon the conduct of the plaintiff, in a Paper called the *Military Register*, on the 1st and 8th of May, complaining of his conduct in his capacity of prosecutor of Captain Tucker by a Court Martial in particular, and also in general terms imputing to him improper motives, such as rancour, malice, and revenge, and also perjury. The defendant having suffered judgment to go by default; the case therefore came before the Jury to assess the damages.

Mr. *Scarlett.*—May it please you, Mr. Collingridge, as Secondary; Gentlemen of the Jury. I have the honour of attending you to day on behalf of Colonel Warren, who is now very nearly the oldest Colonel in the British service, and who is Lieutenant Colonel of the Enniskillen or 27th regiment of foot, of which the present Governor General of the East Indies, the Marquis of Hastings and Earl of Moira is the

Colonel; a regiment which has been serving in every part of the world during the long war in which we have been lately engaged; there is no part of the globe that is not connected with the name of Colonel Warren. I say this, not because it should have any influence upon your minds in awarding the damages which you are to give to him to day, but in order to shew how important it is that no blot should be unnecessarily thrown upon a character hitherto unstained, and which he trusts will remain so till the day of his death. It may be *considered now also* as a distinction, although purely accidental, that he entered the army upon the very same day (having been gazetted as ensign on the 7th of March, 1787,) with that noble person who has brought the country to the highest pitch of glory, I mean the Duke of Wellington. Entering the army at the same period with His Grace, the plaintiff has arrived at the rank he now holds as Lieutenant Colonel of the Enniskillen regiment; and in that capacity it was his fate, after some service in Spain, where he commanded a brigade on the Eastern coast, to be placed with his regiment along with the British army in France, shortly previous to the battle of Waterloo. From this arise the circumstances, which I'll state with as much forbearance and delicacy as the nature of the case will permit. The defendant, Mr. Scott, I am told, was once so far connected with the military profession, as to have been an officer in the Tower Hamlets Militia; ceasing to hold that situation, whatever it was, he then became editor, printer, and publisher, as well as the proprietor of a Journal, which he calls the Military Register; which, besides recording military events, he makes a sort of tribunal to judge of the conduct and the merits of military men, and, according to his understanding, to praise or to dispraise them as he pleases. Whether any individual have a right to do so, and to make himself the tribunal which is to decide upon the character of other men, you'll shew to him and to the country by your verdict to-day; but certainly, if any man without a commission from the King, take upon himself the power to judge of the character and conduct of the King's subjects, he should at least evince the same impartiality and justice as belongs to the Judges constituted by law. Whatever may be said by persons not contented with the law of this country relative to libels, as to its severity in criminal prosecutions, no man says that a civil action for a libel carries any thing in it like severity, because every one knows that if a man publish a libel against any other man in society, when an action is brought, he, the defendant, is permitted to put upon record a justification, and to say it is true, and therefore not a libel; a strange privilege, indeed, but with the propriety of which we have nothing to do upon this occasion; for, although what may be published by a libeller

may be true, it may at the same time be exceedingly improper to publish it, and may prove extremely injurious, but in this case the defendant cannot complain of that law, as there is no truth whatever in what he has published, and, if there were, by a civil action being brought, he had an opportunity of proving it. The defendant cannot therefore complain of the law of libel in this instance; and the more so, because, when the plaintiff saw the libel in question, which I'll by-and bye state to you, he felt no other anxiety than to meet Mr. Scott, or any person who might come forward to support him, in order to enter into a full discussion of the plaintiff's conduct, arraigned as it is in this libel, and in order that a Jury might judge whether he were guilty of any of those scandalous imputations which are charged upon him in this libel. Mr. Scott, however, has thought fit, wisely indeed for himself, to put in no justification of it: he has not thought proper to put in any plea, and he has therefore admitted that he has published this maliciously, and that the charges against Colonel Warren are false; and it is now for you to say what damages are due to a gentleman, whose name has been thus held up by this defendant to public reprobation. This defendant, Mr. Scott, has interfered in, and concerned himself with the proceedings of a Court Martial, with which he had nothing to do, any more than any of you had, and has chosen to publish his commentaries upon a garbled statement of those proceedings, which he admits to be false, and maliciously false when applied to the conduct of this plaintiff, which has been, in regard to these proceedings, the purest in the world. I'll not detain you long upon this case; as the circumstance of the defendant allowing judgment to go by default, in proceedings of this sort, is every thing that is necessary to sustain a verdict; so that it will not be requisite to detain you with a long statement of evidence. The short facts of the case are these*: Colonel Warren was stationed with his regiment in France, shortly previous to the battle of Waterloo; his battalion was not in that battle, but the battalion of that regiment that was in that battle, was commanded by another gentleman, and Captain Tucker was in that battalion at the time of battle. Whatever Captain Tucker had done that merited punishment, was only reported to Colonel Warren; so he could merely know it from others; and give me leave to say, that so far is he now, or ever could have been at any time, actuated by any rancour or personal malignity against that gentleman, Captain Tucker, in his proceedings upon that Court Martial, that I am enjoined by him at this moment to abstain from saying any thing not called for, or to aggravate the feelings of that gentleman, as to that Court

* This is not quite correct. It was Colonel Warren's battalion that was in the action of Waterloo, but he did not himself join till afterwards.

Martial. Nothing farther than what justice requires shall I state of Captain Tucker's conduct, and nothing shall escape me with the design to state any insinuation against him, further than the finding of the Court Martial itself implies. Colonel Warren thought it his duty after that battle to state certain charges against Captain Tucker, which are set forth in the record One of the charges was for highly insubordinate and disrespectful conduct, in writing a certain letter, misrepresenting and attempting to asperse the characters of Colonel Warren his commanding officer, and the officers of the battalion: that was one of the charges upon which he was acquitted, and therefore it is only necessary to state the other charges. The second charge was—"For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in forcibly taking and converting to his own use, on or about the 18th of June last, at or near Waterloo, and afterwards keeping in his possession at Brussels, contrary to the orders of Field Marshal His Grace the Duke of Wellington, a certain bay mare, belonging to some British regiment of dragoons, or regiment, or officer or soldier in British pay, and in effacing or attempting to efface, or causing or conniving at the attempt to efface the regimental mark on the left flank or side of the said mare, and in advertising the said mare for sale in a public paper published at Paris, entitled Galignani's Messenger, and in detaining the said mare in his possession, until ordered by his commanding officer to give her up on the 17th September, 1815;" that was the second charge. The third charge was one of the same nature, only changing the expression "bay mare" into that of "grey mare," and stating that it belonged, or was supposed to belong, to some British officer or soldier, or officer or soldier of the allied troops, that is, of some regiment in alliance with Great Britain. As to the fourth and fifth charges, I will not enter into them, except by stating that they related to irregular conduct in Captain Tucker, in regard to the disposition he had made of the baggage or property of an unfortunate gentleman, Captain Holmes of the same regiment, who was killed in the action of the 18th of June, at Waterloo; a circumstance which was reported to Colonel Warren, who thought that Captain Tucker had not conducted himself in that respect, as the rules of the army require in such cases. I believe the regulation is, that if an officer be killed in battle, the second in command has the power to take the management of his effects; but it is stated in this record, that the libel sets forth, that Colonel Warren, the prosecutor upon these charges, made a violent address, evincing rancour, and also did so in his reply, as we would call it, but which on Courts Martial is called a rejoinder, both of which it is stated were composed with the acutest eloquence. I mention these

things, as they are matters which are set forward in the libels in question, and it would have been necessary to have proved them, if they had not been admitted The Court Martial conducted themselves as you would expect, with all that delicacy and impartiality which honourable men could evince upon such occasions, and Colonel Warren did his duty as a public man, and as a prosecutor should do. They acquitted Captain Tucker of the first of these charges, and as to the second they in their finding say, "The Court do find the prisoner guilty of the whole of the second charge;" they acquit him upon the third charge; and upon the fourth and fifth charges. which are substantially the same, as they relate to the effects of the deceased Captain Holmes, the Court acquitted him of any improper motives as to Captain Holmes's baggage, "but find him guilty of great impropriety in not giving a satisfactory account thereof" I explain no more of that Court Martial, than what is necessary to explain the subject of the libel. Having stated the substance of the charges and finding of the Court Martial, which was afterwards confirmed by the Prince Regent, I will now explain another circumstance, which is necessary to elucidate what is upon the record. Colonel Warren having received a report of this irregularity of Captain Tucker as to Captain Holmes's baggage, when the regiment was at Neuilly, a village near Paris, had thought it right to give notice to Captain Tucker thereof, and to request certain persons to examine into the subject, not thinking that it would be prejudicial to Captain Tucker himself, but merely to clear up his conduct upon these reports which were circulating! It was for that purpose that a court of inquiry, consisting of a few officers, were directed by Colonel Warren to investigate and inquire into the subject. I impute no blame to him as to what he did, but in point of fact, by reason of Tucker not attending in pursuance of the notice sent him, the court of inquiry could not sit till the 6th of October, and at that period he was under arrest upon the other charges by the Court Martial. It is admitted upon the record that he (Colonel Warren) had stated, he had requested this gentleman, Captain Tucker, to attend this court of inquiry, but he had not attended. The court of inquiry did not sit till the 6th of October, and the result of the investigation was not satisfactory to Captain Tucker's character Had he appeared, and explained his conduct, it would have been more satisfactory to Colonel Warren. Colonel Warren, therefore, as the laws of military proceedings permit and as is usual, had a duty to perform, *viz.* that of explaining the charges, and urging them in every way in which his own ingenuity, supported by facts, appeared to justify him, and he himself was also a witness. Having stated these facts, you shall now see what

this defendant has ventured to publish. He states it, as being to Captain Tucker's credit, that the court after trying these matters acquitted him of some of these charges, and they also, in consideration of Captain Tucker's long services and of his family, recommended him to mercy. His Royal Highness the Prince Regent confirmed the sentence and he was dismissed the service, but in pursuance of the recommendation of the Court Martial, in a letter from the president of the Court to his Grace the Duke of Wellington, the Prince Regent was pleased to mitigate the punishment by desiring that he should be put upon half pay. I state this as I have nothing to conceal, and as Colonel Warren regrets that the defendant, Scott, did not put a justification upon the record that all the facts might have been more fully explained upon both sides: and it is from my own want of powers, necessary in representing the feelings of others, if I do not exactly state all that his feelings would dictate. Some representation was made by Captain Tucker, or some of his friends, that Colonel Warren had been influenced by other persons to have proceeded at all against Captain Tucker; and in allusion to this, when the sentence was confirmed by His Royal Highness the Prince Regent, His Royal Highness made some comments upon it. I have no right, even in justification of Colonel Warren, in regard to his conduct upon these proceedings, to state any observations as to this circumstance except for the purpose of explaining this libel. But you may be assured the Prince Regent, as well as those who advised him, would be incapable of representing the conduct of officers otherwise than as being consistent with what the conduct and character of officers should be, so long as His Royal Highness thinks it proper to retain them in the service; to state something to detract from the honour and character of officers, and yet to retain them in the service is impossible. I only explain this much to shew the allusion made in this libel, and to shew the dextrous and malicious manner in which this defendant, Scott, has made use of that circumstance. There is no species of libel calculated more completely to attain the object in the view of a libeller than that which has actually some sort of colour in point of fact; if a person state it partially, and then make a comment or two carrying it a little further, it becomes the more and more injurious, as those who heard something of it will suppose that it is true to the extent he carries it, and will therefore conclude that it is justified; in consequence of thus adding something to head the calumny, or as it were a peg to hang the calumny on, it is rendered the more injurious. The allusions made to what had been stated by His Royal Highness as to that transaction, compose one of the evils of which Colonel Warren has most

to complain; for if any of you had had the whole proceedings laid before you from beginning to end, Colonel Warren knows, and every one acquainted with him knows, that none could have come out purer than the gentleman whom I represent. The Court Martial took place at Versailles, on the 1st of November, 1815, and continued by adjournments to the 9th of the same month; and you will hear now what was published by this Defendant in the month of May, 1816, and there have been allusions since that time necessarily *calling for some notice*, but after reading the whole, you will then judge of the comments of this gentleman. The libel inserted in the Military Register of the 1st of May is to this effect—"LEGO. Military Report, Trial of Captain Tucker, 27th Foot.—There is a something wherever Lord Moira is concerned, that as regards ourselves still yields a glowing interest which nothing can surpass. The matter on which we have proposed to speak, relates to his Lordship's regiment, and we do confess, that far as is from us any particular influence, we have from fond remembrance of its Colonel been much pained by the many accounts of extraordinary anomalies in the battalion of this corps commanded by Colonel Warren." There is the introduction; Colonel Warren commanding the 1st battalion of the regiment alluded to; and here is this gentleman, the defendant, connecting him with transactions which he denominates extraordinary anomalies, meaning irregularities in that battalion commanded by Colonel Warren. What does Colonel Warren say to this? He says, he has documents to prove that there was no colour for such representation, and that there is no foundation for this assertion; but although this be my answer, I cannot call a witness to prove that here, as the defendant has admitted the publication to be a libel; he has not been able to show that there was any species of irregularity, or un-military or unbecoming conduct on the part of the colonel at all. And as this is the temper of Scott, the defendant, that he publishes what he knows not to be true, what right had he then to libel Colonel Warren? We have no wish to throw out an insinuation or to suppose that Captain Tucker dictated or published this libel, as we have no doubt that after it was complained of, he would as a gentleman have come forward and have owned it. The libel then goes on to state, "we have received on both sides this question a variety of particulars, notwithstanding which the following circumstances have struck us most particularly; if others should confront them, we shall be equally ready to point them out." This then is an invitation thrown out to have a paper controversy, a thing perfectly inconsistent with the conduct of a soldier, and

discordant with his feelings and character in military matters. Then he says. "Rancour is evinced in the violence of the prosecutor's address to the Court, and in his rejoinder, though both are composed with the acutest eloquence. Full of unsupported and extraordinary assertions, he often says 'I will clearly prove to the Court' when it is evident that not the smallest proof is afterwards produced." He who gives the proceedings of a trial impartially, ought to give it at length; but instead of this, we find that this defendant has selected merely those particular *passages* or words which he thought most suitable for him to make his comments upon. Then with regard to Colonel Warren's own evidence, the defendant says "The prosecutor's own evidence with respect to his saying, he ordered Captain Tucker *personally and repeatedly* to attend the court of inquiry disprove it, the witnesses he brings forward, (Lieut. Col. Neynoe and Brevet Major Thomas,) state that this court of inquiry sat in October (a month after Captain Tucker had been put under arrest!!) That it was not inserted in regimental orders. It is thus shown that he could not *personally and repeatedly*, have told the prisoner to attend this court of inquiry, for he could not have had communication with him while under an arrest, particularly any of a personal nature. We have been asked is this perjury?" No man can doubt, (as the defendant himself admits) that he did mean to charge the plaintiff with perjury, and that too falsely and maliciously, and no man who states himself to be guilty of that is to be allowed to justify it now. It would have been better for him to have given the whole of the proceedings, and to have left the world to judge of them; instead of this, however, he goes on with his comments, and states this, "The anxiety of the witnesses of the prosecutor to bring forward any thing to criminate Captain Tucker is very remarkable; particularly Mr. West, the surgeon, and Mr. Crow, the paymaster, who (uncalled for) thrust his private letters forward into the hands of the court! That Mr. West——" I wonder how Mr. Scott knew all this, as he was not in the court, and the minutes of the Court Martial could not have given him any such information as to justify these observations. "That Mr. West gave him the certificate of his wounds, for leave of absence, is clearly proved by the evidence of Lieutenant Joseph Smith, as well as by the prosecutor's own evidence; for he acknowledges to have forwarded it for leave of absence, with a strong recommendation, although he in his address, asserts that the prisoner made a false use of the certificate. How extraordinary in the first, how contradictory in the last person." I have to regret that I cannot, (and perhaps it would not be proper) to go into an explanation of this matter, in order to

shew the extremely ingenious manner in which this is put together. The defendant by his conduct, however, has admitted it to be false and malicious, but I should have been anxious to shew the manner in which it has been done. To say that Mr. West gave him a certificate of bad health, but not for leave of absence, makes the one guilty of perjury, and another guilty of improper motives. It then goes on thus, " it was proved that there were (when the Court Martial was proceeding) two officers in the regiment, in possession of horses they had procured at Waterloo, and retained with the knowledge of the prosecutor." This is false, this is absolutely false. You see, Gentlemen, the imputation is, that Colonel Warren had selected this gentleman for prosecution, and had charged him with this offence, when he knew that two officers in the regiment had been guilty of the same thing. Can you conceive any thing more injurious and maliciously false, than to suppose that Colonel Warren had passed these two officers over, and had only charged this one with the offence imputed to him? If he were capable of doing so from rancourous and malicious motives, he would certainly have deserved to have been dismissed from the army. The Prince Regent or those who advise him, would not have allowed an officer who had so acted to have remained a single day longer in the regiment. I have told you, that the Commanding Officer of the battalion engaged in the battle of Waterloo, was not Colonel Warren; in the former part of the libel, he speaks of Colonel Warren as being of that battalion, and then he goes on to say, " the Commanding Officer of the battalion in action it seems, got a horse belonging to the 10th Dragoons, and retained it in his possession until this Court Martial took place, when (being alarmed) he sent it back to that regiment." That, too, is admitted to be false by this record, but by previously stating who was the Commanding Officer of the battalion alluded to, every one would suppose that it was Colonel Warren, and that he had got a horse belonging to the 10th Dragoons, and had retained it in his possession until this Court Martial took place, when he became alarmed lest any individual would charge him with the offence, and therefore he sent it back to the regiment. The defendant does not say, what Commanding Officer he means, but insinuates that he means Colonel Warren. He next states, " it was proved that the second horse (the subject of the third charge) which the prosecutor it seems *illegally* took from the prisoner, was his own private property;" this is an utter falsehood. Then again he says, " the evidence of Lieutenant Miller respecting Captain Holmes's baggage, is most extraordinarily counteracted by that of Lieutenant J. Smith and Ensign Smith—' *I cannot say,*' ' *I do not re-*

collect,' were frequent answers to the prisoner, from the prosecutor's witnesses. Their memories it was observed, however, never fail them in answer to the prosecutor's questions. On the 7th of September, Captain Tucker dined with the prosecutor, was his dear friend and associate; he in possession (as he confessed to the court) of the circumstances which he since magnified into crimes; on the 11th following, revenge seems to have been inspired, by his having given his letter to Sir M. Power." I appeal to you, as gentlemen endowed with manly feelings, if any one of you could quietly sit down with such a charge thrown out against you, as to have it said, that the man you prosecuted was your friend and associate, one whom you treated at your table at the very time you knew every one of the charges, which you afterwards bring against him, but you do not proceed in the prosecution of them, till he gave you offence, and then you are actuated by revenge. Can any man sit down with such an imputation upon him, the more especially when the publication of the proceedings if given fully, would have given the lie to such a base allegation? Then he says, "does there not, we have been asked, most clearly appear throughout a combination against him? The sentence of the Court seems harsh as the crime at most is considered but as a venial one; half Lord Wellington's army may be tried for the same thing." For what could they be tried? See what he imputes to the whole of the British army engaged in that battle, and that too, merely for the sake of justifying Captain Tucker himself, as to the subject of that charge so imputed to him; that half of Lord Wellington's army would take a horse belonging to another and each keep it as his own, and in order to effect that purpose, that they would even deface the mark upon it that it might not be known or discovered to whom it originally belonged. This is the conduct of one who takes upon himself to sit in judgment on a gentleman of high military rank; he says, "the sentence of the Court seems harsh, as the crime at most is considered but as a venial one; half Lord Wellington's army may be tried for the same thing. It was greatly to his honour, however, that the strongest letter that could be penned in his favour, is understood to have been written by Sir Henry Clinton to the Duke of Wellington, and by his Grace sent home." What that letter is which is here alluded to, I cannot say; he has perhaps some private knowledge which Colonel Warren has not. Then he says, "this has naturally been deemed a direct panegyric bestowed on Captain Tucker by the Prince Regent, for not (in fact), flying in the face of the Duke of York, as the prosecutor and the officers did, by holding a meeting, whereby the result was, a direct and flagrant resistance to the Duke of York's commands! Does not this

savour of mutiny? Many have been dismissed the service for a much less offence!" What does this mean? It must allude to something which happened, in which the officers took a part with the prosecutor in the Court of Inquiry which was held, and to which Captain Tucker formerly made allusions, and perhaps Mr. Scott knew more about that matter than any other, when he alludes to a panegyric having been made by the Prince Regent upon Captain Tucker; but this I say, that nothing can be more atrocious than that when the highest authority chooses to make allusions to circumstances which had been mentioned by others, to bring that forward as a charge against any person or persons, without giving such individuals an opportunity to shew that they were unaffected or unconnected with such an imputation as he throws out, viz. that Colonel Warren and several officers in the regiment had at a meeting resisted the Duke of York's commands, and that such conduct savoured of mutiny, and that they might therefore (as many others have been,) be dismissed the service for a much less offence. Is not this a gross, malicious, and scandalous charge, to say that those who had been guilty of a less offence than that falsely alledged against Colonel Warren had been dismissed the service? If any of the officers were capable of doing that which is imputed to them, they ought to be put upon a Court Martial, nor will they deserve to remain in the service, nor will Colonel Warren deserve to remain, if you even now give any colour or credence to this imputation. How can a man sit quietly under such a charge as that of being guilty of mutiny to an extent beyond that for which many have been dismissed the service? Can such an imputation be tolerated, by officers in the army, and men of high station, to whose character fair fame and reputation are as important as any thing which may be deemed by others as a much more solid comfort in life? He next goes on to state, "it appears on the face of the proceedings (although the sentence censures Captain Tucker for not having given a satisfactory account of the baggage of Captain Holmes,) that every satisfactory account was laid before the Court, such as the inventory, &c. and sworn to by evidence as being correct. Should not the Court have noticed this?" Colonel Warren is obliged to this man for joining his name with such honourable men as those alluded to. He then says,—"For as it stands, it might appear to those who have not read the proceedings, as if Captain Tucker had not given, even before the Court, a satisfactory account of Captain Holmes's baggage. It does seem to have been clearly proved, that in bringing forward this prosecution against Captain Tucker, the public service was not the paramount object of the prosecutor. Is it, therefore, (say his friends) to be permitted, that his character is to be

defamed and blasted, even for a moment, on accusations so abominable, as they were afterwards proved to be so false?" This is a serious matter: let me suppose, that if any one of you were bound to prosecute a person for a civil offence, and that he were discharged,—what satisfaction would you require, if you were to be held up thus to public scorn and reprobation, and to have it imputed to you that you had brought forward accusations which were not only abominable, but false? And what would you think, if you should find yourselves so defamed in the public estimation, by *its being* published in the public newspapers that your conduct in that prosecution was founded upon rancour and revenge, in bringing forward charges which were malicious and false? It does not follow that the charge was false, because a person accused may be acquitted; the word false, as here used, means that the person brought the accusations forward, knowing them to be false at the time of bringing them before the Court; if not, what right has this person, the defendant, to say, that the accusations were abominable or false. He proceeds to state—"Is it to be permitted, in respect to one of long and arduous duties of near twenty years, actively passed in the four quarters of the globe in the service, *and who bled in the field of Waterloo!* (meaning Captain Tucker,) that his character should be at the mercy of malice and revenge? Is it to be permitted to any man, in short, with impunity to sport with a character that is admitted to have been irreproachable, is proved to be by the very respectable testimonials laid before the Court Martial, and by Colonel Thompson's truly Roman friendship? Does such a cruel and unwarrantable proceeding deserve no punishment? Setting aside other matters attending this extraordinary prosecution, we learn from France, that the prosecutor solicited the reprimand to be withdrawn, with regard to as much as affected himself, but in vain; 'there appearing no reason for withdrawing it.'" These last words are here put between inverted commas, as if they formed a quotation. A quotation from what? Colonel Warren is wholly unconscious either of composing, reading, or publishing any thing in which such words were contained; he knows not of having done any thing that can subject him to any reprimand whatever. Then this libel concludes with stating this,—"and also that Captain Tucker is restored to full pay of the regiment." It is true that his Royal Highness was pleased to do so, but this is not published till after that took place. I won't detain you with a commentary upon any thing farther. You are already in possession of the nature of the charge; it is this—that a military man of high rank has been under the necessity of bringing a prosecution against an officer in command under him, upon charges

upon which he has been partly convicted and partly acquitted, dismissed the service, and afterwards reinstated; and that prosecutor is after the lapse of some time charged with perjury in his evidence, and also said by this libeller to have been actuated by private revenge, malice, and breach of friendship; that he tolerated the same offences in other men, while he gratified his resentment by prosecuting this individual. All this appears to be stated in this publication of the defendant, which he calls his Military Register; then I ask you, whether Colonel Warren ought to submit to it as a military man? Nay, I ask you, can any man bear it? Colonel Warren might have proceeded against this defendant Scott in a different manner, by asking the Court of King's Bench for a criminal information, or might have indicted this person to have answered with his liberty for the offence he has so committed. Colonel Warren, however, as you find, took another mode, much more lenient to this defendant, by bringing a civil action, by which he allowed him to justify his allegations; this was saying to him "I'll stand or fall in my character, or reputation, by the result of that proceeding; I therefore dare you to do it." No, the defendant did not dare to do it, but shrunk from it. Allow me, Gentlemen, to say, upon this occasion, that Colonel Warren is a man whose character, fortune, and gentlemanly feelings, put him far above any mercenary motives or expectations in such a case as this; the only anxiety he has is that the world in general, and his country in particular, should find, that upon such a rancorous, malicious, and false publication as this, he had not shrunk from inquiry and investigation, but was ready to meet it in every form, as the best means of effectually clearing himself from such foul imputations as have been thrown out against him in this libel: in the result the world and his country have already found, that the defendant who has thus libelled has not dared to meet him, but has allowed judgment to go by default, thereby admitting the malice and falsity of his accusations. Then when you find that such accusations were not true, or that they were not founded on fact, see what injury it does his character; a soldier is more tenacious of standing high in point of character and honour, than perhaps any other man. There are certain feelings belonging to a soldier which may be said to form peculiarly a strong feature in the military profession; the man who fights the battles of his country has most frequently only his glory, great eminence, and renown for valour, and high estimation in the world for his fair character to depend upon, more than his fortune; for how few are there who can say at an advanced period of life, that he has earned any thing but fame! Shall we then

allow that fame which they deem their greatest reward for the services they have bestowed in their country's cause, to be impaired or abstracted from them, by a malicious and scandalous libeller? Can you suffer, in regard to one, who enables you perhaps to sit with safety and security in this place, that all the reward he has hitherto earned shall be frittered away by a base and scandalous publication, which says, that notwithstanding the military glory and fame you have acquired, and which is your chief property, you are a slanderous, rancorous, and revengeful accuser, one who has been guilty of *mutiny*, and for less than which many have been *dismissed* the service. What is this honourable person to receive from his country for what he has already done in its service, if this offence be not to be punished, if you allow his character and fair fame to be thus impeached and attacked by such a publication, or if you entertain a doubt that every part of this publication is as false and grievous as he himself feels it to day? With respect to the object of putting money into his pocket, I can safely state that it is the last motive he has in this proceeding. The fact is, he would have been better contented that the defendant had put in a justification upon record, that he might grapple with it, and shew his country that his fame and reputation were more dear to him, and more the object of his ambition to maintain unsullied, than merely the seeking for damages at your hands. What is it which he has been serving his country for, if it have not been for that reward? That glory cannot be shaken, and I trust you will enable him to maintain, that high character which he has hitherto supported, to descend to his posterity, earned as it has been by his own means, and that it may so descend, as pure as he himself has earned it. The defendant has made no justification, and therefore he has admitted this publication as being a libel, containing a false charge, and it is therefore left to you, to say what amount of damages you think proper to award against him, as a retribution to be made to a man, who has so long served his country, in whose estimation this attempt has been made to vilify him. As to the other libel, which was published in the Military Register of the week following, and which is also on record, I will not trouble you; but with these observations, will leave the matter in your hands.

Mr. *Collingridge*, (joint Secondary).—Is there any person here on the part of the defendant?

Mr. *Robert Scott*.—I am Mr. Scott, the defendant.

Mr. *Collingridge*.—By suffering the judgment to go by default, you have admitted all that is stated upon the record, and that this libel is false and malicious.

Mr. *Scott* then addressed the Jury in his own behalf, by

reading a very long written statement, in which he alledged that this inquisition had come upon him at a moment when he was unprepared, and when he was deprived of the evidence of his Grace the Duke of Wellington, Sir Henry Clinton, and Sir Lowry Cole, merely because it suited the convenience of Counsel.

Mr. *Collingridge* (interposing).—You could not have had any witnesses to prove any fact upon this occasion; you should have appeared at the trial.

Mr. *Scott* submitted, that if Colonel Warren were not that high character which had been stated by his Counsel, he (the defendant) ought not to be subjected to such a high punishment as might otherwise be inflicted. [The defendant then entered into a long statement as to the conduct of Colonel Warren, with a view to justify his own aspersions upon the plaintiff's character and motives in his proceedings.] He observed, that the Learned Counsel had insinuated that he (the defendant) had been merely in the capacity of a Serjeant in the Tower Hamlets.

Mr. *Collingridge*.—It was not so stated, nor so inferred.

The Defendant then proceeded with his statement, in which he traced the progress of the plaintiff and his military career in various parts of the world, and still continued to throw out further insinuations of misconduct, but he read his detail so quickly that it was impossible to follow him with any accuracy.

Mr. *Scarlett* (addressing the defendant.)—Do you mean to prove these as facts?

Mr. *Scott*.—I am placed in a very peculiar situation.

Mr. *Collingridge*.—Every one knows his own affairs best, but it does seem to me that you have all along been doing yourself an injury instead of a benefit in reading this paper, which is only adding libel to libel.

Mr. *Scott*.—I only address this to the Jury in mitigation—(still persisting in the reading of his statement, with which he was permitted to continue.)

Mr. *Scarlett*.—I really think it is time to interpose. If any gentleman at the bar had stated this matter upon such an occasion, I should have interrupted him long ago. The defendant is about to state a document, which he has no right to put in nor to justify in this cause. Had he thought proper to have justified the libel, he might have had a right to do so, but I think he ought not, under existing circumstances, to state that which by law he cannot prove.

Mr. *Collingridge*.—I thought so long ago.

Mr. *Scarlett* (to the defendant.)—I do not prejudice you; the course is not upon these occasions to state things which one cannot prove.

The defendant was proceeding to state, as a mitigation of

his offence, that the Sovereign himself (meaning the Prince Regent) had promulgated things more severe than he (the defendant) had done.

Mr. *Collingridge.*—That is not what you are charged with; my opinion is, that you are not at liberty to prove *that* in this case, and therefore you have not a right to state it. If you intended to have done so, you should have pleaded to this libel, and not have admitted it. You have already admitted that the libel is false and malicious, and yet you are now going to alledge that it is neither false nor malicious.

Mr. *Scott* added, that that was not his intention, but merely to shew that that which was promulgated amongst all the soldiers in the army, could not have been published by him with malice.

Mr. *Collingridge* —I am of opinion that it is not produceable in evidence in this stage of the proceedings.

Mr. *Scott.* –In fact, in such a case as that I have no power of mitigating the offence.

Mr. *Collingridge.*—You had the power of putting in any plea you pleased upon record, and you could then have gone into the question of malice.

Mr. *Scott* observed, that then he should have stated all this.

Mr. *Collingridge.*—I don't know that you would have been allowed to do so.

Mr. *Scarlett.*—You have no right even to state now any of those things, although they were facts.

Mr. *Collingridge.*—If I be wrong in any opinion I have formed, the Court will set me right. Perhaps if I had done my duty, I should have stopped you long ago, as you have been going into a great length upon matters which you had no right to touch upon; but I am always disposed to be indulgent to a person in your situation, who has not Counsel to guide him.

Mr. *Scott.*—In my present situation I am prevented from doing justice to the feelings of Colonel Warren.

Mr. *Scarlett.* You are going to do him a kindness, are you?

Mr. *Scott.*—Yes,—if I were allowed to state the promulgations of the Sovereign.

Mr. *Scarlett.*—The defendant is pleased now to state ingeniously his own interpretation of it, but as he has no right to state the document itself, still less has he a right to state his opinion of it.

Juror (to the defendant.) You are doing your cause no good; you are aggravating the offence.

Mr. *Scott.*—I feel that as to every part of the subject I give up, I am sacrificing the liberty and rights of the subject. I am sorry to hear you state so. Colonel Warren

has laid his damages at 4000*l.* and because I have allowed judgment to go by default is that to go against me?

Mr *Collingridge.*—The Jury are to judge of the damages; you should have pleaded.

Mr. *Scott.*—I always understood, that it was favourabie to me, by allowing judgment to go by default.

Mr. *Scarlett* —I have no doubt that you took good advice when y‹ u allowed judgment to go by default.

Mr. *Scott* — It was an act of my own, without any advice, as in many other cases. I am not dishonouring myself, nor the country, by stating what remains to me. In fact, I don't see, if I be precluded from stating that Colonel Warren's character was such as it was, that I can say more than humbly submit myself to the Court, as it is to no purpose to call evidence I shall, therefore, merely submit to what appears to be the opinion of the Jury; I shall only humbly state to their consideration, that I am not in the situation which sometimes happens as to some journalists who are supported by other individuals. Whatever was the intention, I was unsupported in it; I have no one in the back ground; I hope that will remain upon the minds of the Jury.

Mr. *Collingridge.*—Gentlemen of the Jury; This is an action brought by the plaintiff Colonel Warren, who appears to be a lieutenant colonel of one of His Majesty's regiments of foot, against the defendant Robert Scott, who is editor and publisher of the Military Register, for a libel published upon the 1st of May, 1816. The record begins by setting out certain proceedings of a Court Martial held at Versailles, in November, 1815, as to some charges brought against a Captain Tucker of the same regiment, the 27th regiment of foot; it states what the charges were, and the sentence or finding of the court Upon some of these charges the accused was acquitted, and then it states that the defendant falsely and maliciously published, upon the 1st of May, 1816, the libel which you have heard from the learned counsel, and also a variety of observations arising out of this libel on the part of the plaintiff. The plaintiff has called no witnesses to prove the facts of this case as stated upon the record, as it was unnecessary to do so; the defendant having admitted judgment to go by default, thereby admits all the statements upon the record, and amongst other statements, that this libel which has been set forth is a false and malicious libel. Under these circumstances the plaintiff calls upon you for such a recompence in damages, as will enable him to sustain that high character and reputation in life which he has hitherto borne. The defendant appears here in person before you, and has read a long paper by way of defence and justification of his conduct; whether

he have acted judiciously or not in doing so, I will not take upon myself to say, but he states amongst other things that Colonel Warren has not sustained any damage by this libel. Whether that be so or not it is for you to say: but it appears to me that a person accused of malice, revenge, and even the crime of committing perjury, must in that character and station in life in which he has hitherto moved, have sustained considerable damage, if not in his pocket, at least in his feelings and in his mind The defendant goes on to say, that Colonel Warren was long considered before this as a military oppressor, and states circumstances to show it; whether he (the defendant) do justice to his own cause or not, or acts judiciously without feeling compunction for his former conduct, is for himself to determine, but these are the circumstances that come before you. It is for you to say what damages, under these circumstances, the plaintiff has sustained, and in taking these into consideration you are to consider what will be a fair and fit sum to be given to the plaintiff in order to enable him to support that character which he has hitherto sustained, and as appears does still sustain in life. Gentlemen, you'll please consider what damages ought to be given under all the circumstances of the case.

VERDICT FOR THE PLAINTIFF—*Damages £500.*

PROCEEDINGS

OF A

GENERAL COURT MARTIAL,

Held by virtue of a Warrant from Field Marshal His Grace the Duke of Wellington, K. G. and G. C. B. Commanding his Majesty's Forces in France, &c. &c.

VERSAILLES, 1ST NOVEMBER, 1815.

PRESIDENT.—Lieut. Gen. Sir HENRY CLINTON, G. C. B.

MEMBERS.

Lieut. Col. CAREY, 52d R.	Lieut. Col. ROBERTS, 3d Buffs
JONES, 71st	Major CAMPBELL, 36th
Captains MARLAY, 3d Buffs	Captains PIDGEON, 71st
BAILLIE, 38th	SHEDDON, 52d
BLAKENEY, 36th	YOUNG, 52d
Lieuts. COCHRANE, 2d 95th	Lieuts. MOODY, 36th
BALDWIN, 71st	WALSH, 3d Buffs

DEPUTY JUDGE ADVOCATE.—Bt. Major SAM. REED, 71st.

The President and Members, as well as the Deputy Judge Advocate, being duly sworn,

The Court proceeded to the trial of Captain JOHN TUCKER, 27th Regiment, on the following Charges, *viz.*

FIRST CHARGE For highly insubordinate and disrespectful conduct, in writing a certain letter purporting to bear date on the 19th September, 1815, and addressed to Lieut. Gen. Sir Lowry Cole, wherein certain motives and conduct are imputed to the officers of the 1st battalion, 27th regiment, deeply implicating their character as a corps and as individuals, and wherein the conduct of Col Warren, commanding the 1st battalion 27th regiment, is complained of, and in several instances is falsely represented, thereby attempting to asperse the character of his Commanding officer and the officers of the battalion.

SECOND CHARGE. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in forcibly taking and converting to his own use, on or about the 18th June last, at or near Waterloo, and afterwards

keeping in his possession at Bruxelles, contrary to the orders of Field Marshal His Grace the Duke of Wellington, a certain bay mare, belonging to some British regiment of dragoons, or regiment, or officer, or soldier in British pay, and in effacing or attempting to efface, or causing, or conniving at the attempt to efface the regimental mark on the left flank or side of the said mare, and in advertising the said mare for sale in a public paper, published at Paris, intitled Galignani's Messenger, and in detaining the said mare in his possession until ordered by his commanding officer to give her up, on 17th September, 1815.

THIRD CHARGE. For scandalous and infamous conduct, unbecoming an officer and a gentleman, in forcibly taking and converting to his own use, on or about the 18th June last, at or near Waterloo, and afterwards keeping in his possession at Bruxelles, contrary to the general orders of Field Marshal His Grace the Duke of Wellington, a certain grey mare, supposed to belong to some British officer, or soldier, or officer, or soldier of the allied troops, and in effacing, or causing, or permitting to be effaced a certain mark on the left flank or side, with the intention to prevent the said mare from being recognised and identified, and in selling the said mare to Lieutenant Duhigg of the 27th regiment, for a certain sum of money amounting in value to 200 francs French currency.

FOURTH CHARGE. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in secretly breaking open, or causing or permitting to be broken open, on or about the 24th day of June last, or some day previous to the 10th day of July, without proper witnesses, at his lodgings in Bruxelles, the portmanteau, trunk and canteen, and other baggage of the late Captain George Holmes of the 27th regiment killed in the action of the 18th June at Waterloo, and taking thereout, and disposing of, or appropriating their contents, consisting of wearing apparel, money, and other valuable effects, and rendering no satisfactory account thereof.

FIFTH CHARGE. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in burning, destroying, or mutilating, or causing, or permitting to be burned, destroyed, or mutilated, on or about the 24th day of June last, or some day previous to the 10th day of July, at his lodgings in Bruxelles, various letters and papers contained in the baggage of the said Captain George Holmes, thereby destroying the materials which were and are indispensably necessary to enable the Court of Enquiry appointed to assist the Major of the regiment, to ascertain and determine the state of the regimental and private accounts of the said Captain George Holmes.

To which charges the prisoner, Captain John Tucker, 1st battalion, 27th regiment, pleads NOT GUILTY.

The PROSECUTOR, Colonel Warren, 27th regiment, addressed the Court as follows:

ADDRESS OF THE PROSECUTOR.

From the nature of the charges which are now before the court, it will be readily conceived with what reluctance I must have undertaken this prosecution, and that if I might have allowed myself to be actuated by my feelings as an individual, I should have declined the office of Prosecutor, a duty at all times disagreeable, and, under the peculiar circumstances of the present case, more than usually unpleasant and revolting.—But placed as I am, in a situation where I am responsible for the conduct of the persons under my command, when the facts, upon which the present accusation is founded, were forced upon my notice, it was no longer with me a matter of discretion or feeling - my duty was imperative. It would have been in me a criminal negligence, or worse; it would have been a dereliction of my duty as an officer, and an injustice to the prisoner himself, to know that suspicions of a nature so disgraceful and so criminal attached to him, and not to have investigated the foundation on which they rested.

But after entering upon this enquiry, had I, from delicacy or consideration towards the prisoner, hesitated what course to pursue, the conduct he thought proper on this occasion to adopt, left me no alternative.

In the letter referred to in the first charge, he himself puts the question at once to issue; he appeals to the General of Division; he appears to invite and brave investigation; he complains of injuries where he claims approbation; and offers to lay his complaints and merits before His Grace the Duke of Wellington.

Under whatever impulse he composed that letter—whether, as he therein states, "in the acute anguish of sorrow, agitation of mind, and distressed feelings," or whether, in the intemperance of his resentment on being ordered to his duty, and obliged to resign what with so much pains and with so much risk he had endeavoured to secure to himself, whether he hoped to evade enquiry by appearing to invite it, or merely to gain credit for unconsciousness of error by the dissembled candour of his statement,—by whatever feelings or motives he might have been actuated in writing that letter, when he sent it to me with a peremptory injunction to forward it instantly to the General of Division, he threw down the gauntlet of defiance. Till that moment I had taken no steps regarding him, but such as I was bound

to do as Commanding officer. I had passed unnoticed the irregularity of his previous complaint to Major General Sir M. Power. The measures I took, and the orders I gave, were only in obedience to the regulations of the service, and the General Orders of this army. But he appeals from my authority; he tells the General "he flies to him for protection and justice." That it may be seen what protection or justice has been denied him—that the justice he invocates may be fully awarded to him, I have instituted this prosecution:—he must now abide the event of his appeal.

It may be necessary to premise, that the offences referred to in the two last charges being of so distinct a nature, and so unconnected with the rest in every respect but the time and place of their commission, I shall not, for the present, advert to them. But as the letter referred to in the first charge touches upon the subject of the two next articles of accusation, and they will be thus at the same time brought together under the notice of the Court, I shall naturally be led, in pointing out the calumnies and misrepresentations of that letter, to demonstrate by what evidence that statement will be falsified, and by what proof the three first charges will be supported.

To sustain the allegation of the first charge, it would be scarcely necessary to do more than simply to lay that letter on the table of the Court. The calumnious and libellous tendency of that paper is so palpable, that it is impossible to mistake the intention of the writer. He tells the General "that he is put in a state of Coventry by the officers of the first battalion 27th, in consequence of a letter he had addressed to Major General Sir M. Power, who, upon the receipt, had taken the proper steps accordingly; that he is treated by the officers as a person devoid of the principles of an officer and a gentleman—and for what? for performing his duty to His Majesty's service, in preventing an officer from joining his regiment in consequence of his disgraceful conduct, a conduct which completely involved his character as an officer and a gentleman, and who notwithstanding was received in the first battalion."

The libel here is not to be made out by inference or implication; no ingenuity is required to detect it; the accusation is as direct as it is false, and its effrontery is equalled only by its malignant absurdity. In distinct unequivocal terms the officers of the first battalion are accused of having sullied their honour by associating with an improper character, and of having treated the prisoner with the most marked injustice, for the performance of his duty in resisting the contamination.

Can it for a moment be credited, that a body of honourable men would persist in receiving into their society a man,

known by them to have so shamefully disgraced himself as an officer and a gentleman, as stated in this letter, and that they should thus persecute the inflexible monitor, who, faithful to his duty, warned them of the infamy they would incur by such a proceeding. What! protect and court the society of a man notoriously bankrupt in character and honour, and avoid the person who "for eighteen years," as he says, "had ever upheld the character of an officer and a gentleman," and treat him with injustice and contumely, because he persisted in his duty, and would have prevented them from violating their own! If it could be imagined that any body of men could agree voluntarily to submit to such wilful self-degradation, and, without reason, combine to act with such wanton injustice, their conduct would be almost as culpable, and the motives that prompted it, as reprehensible as His, who, without foundation, has thus presumed to prefer such a charge against them.

But what is, in truth, the real state of this case—and what has been the conduct of the prisoner on this occasion? Without implicating the officer referred to, or entering into the question of his alleged offences, I shall be able to shew how far the prisoner's boast of having performed his duty, in this instance, is supported by facts.

It is about two months since that the officer in question called on me to report himself on his arrival from England. He stated, that seven or eight months before, while in the island of Bermuda, he had been induced, under certain circumstances, to tender his resignation; that as no official notice had been taken of that tender, and the particular circumstance that induced him to make it, no longer existed, and his Leave of Absence was expired, he had come, as was his duty, to rejoin his regiment.

Before taking any decisive steps respecting him, I conceived it necessary to make all the enquiries I could of those officers, who were present at Bermuda at the time of his resignation; and in the course of this enquiry I ascertained, that, for several days after the arrival of Captain Tucker at Bermuda, he was frequently seen walking in a familiar and friendly manner with the officer in question; and that the transport he was on board of, having struck upon the rocks going into Bermuda, the prisoner (who went immediately on shore) left his wife and child in charge of this very officer, whom he afterwards uses all his endeavours to turn out of the service, for improprieties of conduct alleged to have taken place, prior to his arrival at Bermuda! It was not indeed till long after Captain Tucker's arrival at the regiment, and refusal of all explanation on the subject, that I became acquainted with all these circumstances.

It appeared, therefore, that there could be little ground

for the prisoner to prefer charges which his own conduct, subsequent to the imputed offence, so directly tended to invalidate and disprove. Nor was it understood that it was on account of the charges to be preferred by Captain Tucker, that the officer gave in his resignation. Still it appeared necessary to myself and to several of the senior officers of the regiment, whom I consulted on the occasion, that some explanation on the subject should be obtained from Captain Tucker, before the officer in question should be allowed to resume his duty.

As soon, therefore, as Captain Tucker arrived from Brussels, I applied to him on the subject; and was not a little surprized to find that he insisted upon the tendered resignation of the officer being considered final: at the same time that he constantly, and with the most persevering obstinacy, refused to give any official explanation of the circumstances, that might render such a measure necessary or advisable.

What then was to be done?—Were the fate and character of an officer of long service to be left entirely to the mercy of Captain Tucker? Was I to be compelled to abet and execute his despotic mandate? The best mode that suggested itself of investigating and determining the business I adopted. At the request of some of the senior officers, I ordered a meeting of the officers of the regiment, at which I requested Captain Tucker to attend, that he might state the nature and grounds of his accusation.

The officers met, but Captain Tucker declined attendance; refusing, even to the last, the slightest explanation to the Corps. No one present had any objection on their part, or of their own knowledge, except the admitted circumstance of resignation, to prefer against the officer in question. Under such circumstances, when every facility was offered to the accuser, and the accused professed himself ready to abide the event of an investigation, could I without injustice, (admitting that I had the power of denial) refuse to allow him to rejoin his regiment, merely because he had seven or eight months before tendered a resignation, *which had not been acted upon?*

But if there was any impropriety in re-admitting that officer to the Corps, if his character was as objectionable in every point as the delicate zeal of his accuser would represent it, if the regiment could be contaminated by his society, it is upon Captain Tucker, who, knowing him to have so committed himself, still chose to associate with him, and make use of his services; it is upon Captain Tucker, who, brooding in darkness over his imputed offences, refuses to divulge them, and leaves the regiment without the least ray of light to direct its investigation, (though he had the charges actually prepared, and sent in professed copies of

them to Major General Sir M. Power a few days after the meeting of the regiment) it is upon him, who acting thus has yet presumed to assert, that on this occasion he has performed his duty, and has arraigned the conduct of the officers of the 1st battalion; it is upon him that all blame, all odium must fall for the present, and to him all responsibility for the future must attach.

By reflecting on these circumstances, and considering the capricious inconsistency of his conduct to this officer, and the supercilious contempt he had shewn to the regiment, by so repeatedly refusing all explanation, without adverting to any other cause, modesty alone might have suggested to him some other reason for his being avoided by the officers of his regiment, than this boasted performance of his duty.

I have dwelt longer on this part of the prisoner's letter, as it is more directed against the corps of officers than myself. I shall call evidence to shew, that at the Meeting, at which Captain Tucker neglected to attend, there was no step taken inimical to him, nor at any subsequent period any resolution entered into of putting him in a state of Coventry.

I shall pass by for the present that part of the letter, where the prisoner complains of my having ordered him to give up a horse, as that will come more naturally to be considered, when I enter on the two next Charges; and I shall proceed to direct the attention of the Court to the next paragraph of the letter, in which I am charged with having precluded him from the indulgence granted to wounded officers, and wherein a direct attempt is made to insinuate, that the orders I sent him were directed by a spirit of persecution.

The documents I shall produce, and the evidence I shall call will prove, under what circumstances those orders were given; and at the same time exhibit another instance of the fatal propensity of the prisoner to bring forward subjects which might otherwise have passed unnoticed, and which, upon investigation, tend only to inculpate himself.

In consequence of a certificate granted by Staff Surgeon Downing, and which will be laid on the table, the prisoner was excused from duty; he lived at La Chapelle, where he took up his quarters on his arrival from Brussels. It was known that he was endeavouring to procure Leave of Absence through a Medical Board.

Apparently too securely relying on the measures he adopted, he neglected or sometimes forgot to keep up the necessary appearances, and did not attend to the injunctions of the Staff Surgeon, who, on granting him the Certificate, directed him not to ride about or appear in public.

It was reported to me officially, on the part of the Captains of the regiment, by the senior Captain present (whose letter I shall produce, and whose testimony will be supported

by that of other officers) "that Captain Tucker had been repeatedly seen walking in the streets of Paris, that it did not appear that the state of his wound was such as to prevent his doing his duty--that there being only five Captains present with the battalion, most of whom had prior claims to Captain Tucker, they should feel it a hardship if, under such circumstances, he were allowed to go to England, leaving them to do his duty."

Though I was given to understand at the same time, that the fact of his having been seen walking about Paris perfectly at his ease, could be attested by several of the Captains and Field Officers, and it became therefore my duty to interfere—I did not act upon this letter until I had given the subject the most impartial investigation.

I applied to the Staff Surgeon of the Division, and to the Surgeon of the regiment, whose certificates I shall produce, and on whom I shall call, to prove, that they stated Captain Tucker to be fit for all duties, with the exception of field days.

It was not till then, when it was thus reported to me officially by officers of the regiment, and certified by the Surgeons, that Captain Tucker was endeavouring to evade the duty of which he was capable; when it was ascertained that the certificate given him by the Regimental Surgeon to appear before a Medical Board, merely for the purpose of obtaining his year's pay, had been made use of by him as an instrument to forward his endeavours to obtain leave of absence; it was not till then, that I ordered Captain Tucker to his regiment and his duty; at the same time directing the Quarter Master to get him a billet in the village of Neuilly; it was then I told him to send me the order he had obtained to appear before a Medical Board—it was then that I and the Staff Surgeon directed the Regimental Surgeon to apprise the Medical Board of the circumstances, under which they had given their certificates to Captain Tucker, and of his own and the Staff Surgeon's opinion respecting his fitness for duty.

These facts I shall establish by the clearest and most incontrovertible evidence: and yet it is on these grounds, that the prisoner has presumed to complain of my conduct, and to represent himself as precluded by me from the indulgence granted to wounded officers.—Had I acted otherwise, I should have committed an injustice to the officers of the regiment, and an injury to the service.—My duty was plain, simple, and direct—I proceeded accordingly: and I now charge the prisoner to be guilty of a most gross and deliberate libel on my character as his Commanding Officer, for having done officially, what I was bound to do:—a libel engendered in the spleen of defeated artifice, and aimed against

the very principles of discipline and subordination. Who would undertake the responsibility of command, if he were liable to be thus impeached for the ordinary and indispensable exercise of his legitimate authority?

But this is not the only complaint preferred in this extraordinary letter against me for the simple performance of my duty. If this letter could not be laid on the table of the Court, would it be credited that any man should have ventured to write thus to the General? "I beg leave, Sir, further to complain to you, that Colonel Warren sent his Adjutant four days past, desiring me to give up to him a horse I had got at Waterloo, and desired to know whether I had burned a mark out of it. This order, Sir, I immediately obeyed on the principles of obedience to a command from a superior officer by delivering up the horse, which was taken to Colonel Warren's quarters."

Here, then, he voluntarily steps forward and tells the General that he had got a horse at Waterloo, which in defiance of the General Orders he had kept till the middle of September; speaks coolly of the burning out of a mark on the horse; claims merit for having delivered it up, on the principle of obedience to the command of a superior officer, whom he at the same time accuses of injustice, for thus enforcing the orders of the Commander of the Forces. Is this fatuity, is it a callous insensibility of shame? Or is it not rather an affectation of candour intended to impress a belief, that he could not be aware of any impropriety in detaining this horse? But even in that case, to complain of my having ordered the restitution, evinces a determination to accuse, and a disposition to asperse my character, which can have been prompted only by the worst feelings, and a most unwarrantable spirit of animosity. I shall, however, demonstrate by positive evidence, that the prisoner was perfectly informed on the subject of the General Order relative to the horses found at Waterloo, as soon as that order was issued at Brussels; and that he not only wilfully disobeyed it, but used all means in his power to prevent his being obliged to comply with it. His complaint therefore, on this subject, is not only intended to misrepresent the conduct of his Commanding Officer; it is a wilful and deliberate attempt to impose a false statement on the General. In the same spirit he proceeds to complain, that the day after the horse had been given up, I sent him an order by the Adjutant "to put down in writing if he had burned the mark out, for if he had, I would bring him before a General Court Martial."

I should think it almost unnecessary to defend myself against the imputation of so gross an absurdity, as to expect that even his refined notions of duty, or "submissive principles of obedience to the command of his superior officer," would

induce the prisoner to send me a written document of crimination against himself. But to show the general spirit of misrepresentations, which pervades this letter, I shall produce the Adjutant to prove, what was really the message, which I sent on this occasion. He will inform the Court, that the order he delivered, was to require Captain Tucker "to state "to me in writing, by whom or by whose order the mark had "been effaced from the side of the horse, and that if he "did not, I should report the business to Head Quarters." This information appeared to me absolutely necessary, to enable me to answer officially any enquiry, which might be made on the subject. But so little intention or disposition had I to bring the prisoner to a Court Martial on that subject, as he would make it appear; that in reporting to the Adjutant General, that such a horse was in charge of the Regimental Quarter Master, I merely stated, that the horse, or rather the mare in question, had been brought up from Bruxelles by a wounded officer of the regiment lately arrived, and was now returned to be claimed; that the mark in her side was taken out; but I understood her to have belonged to the 12th Dragoons: I did not even mention Captain Tucker's name. If, however, I had been idle enough to demand from the prisoner such a written confession for the avowed purpose, as he states, of bringing him to a Court Martial; he shows that he knew much better than to give it; and proceeds to lay before the General the statement he sent me on the occasion, a statement, which I shall prove to be as little entitled to credit, as any other part of the letter; commencing in fallacy, dissembling some facts and suppressing others, and ending in a false and libellous charge against myself, of connivance at his fraudulent appropriation of the horse and disobedience of General Orders. He states, "that being severely wounded in the battle of Waterloo, a man caught him a horse, (which had been running about the field, and evidently with its rider killed) and which horse he was put on and conveyed to Bruxelles; that he understood a foreign mark had been on the horse, and which was taken out by a private servant which he had, while he was lying extremely ill in his bed, unable to move. That I might recollect his having told me at my own house three weeks past, the circumstance of his getting the horse."

What reliance is to be placed on this representation, will be seen by the evidence, which I shall produce to the second and third charges. I shall therefore not dwell on it here. But with respect to that part, where he says, that three weeks before he had acquainted me with the circumstances relative to the mare in question, I am ready to admit that one day at my house, in the month of August, in reply to an observation of mine, that the mare which Mrs. Tucker

had rode over was a handsome animal, the prisoner in a significant manner exclaimed, "Aye--Waterloo! Waterloo!" Nothing further passed. At that time I was not aware of the General Order relative to this subject; nor was it till a considerable time afterwards, that I was made acquainted with the very disgraceful circumstances attending his getting her, and the business of taking from her side the cavalry mark. These matters being mentioned in my room before several officers of the regiment, compelled me to require from Captain Tucker restitution of the mare. Further than what I have stated, I never had the least conversation with the prisoner on the subject; and indeed, it may be observed, that to have made his Commanding-Officer the confidant of such a transaction, would have required little less assurance, than the attempt to ground, on such pretended confidence, matter of complaint and accusation.

I have thus laid before the Court, the facts and arguments, upon which I shall rest the proof of the first charge against the prisoner. I have detected his misrepresentations; I have shewn his complaints to be unfounded; I have proved, that where he has accused others, he has been himself alone culpable: and to ascertain the libellous aim of these complaints and accusations, to be convinced that they were directly intended to asperse the character of his Commanding Officer and the officers of the regiment, it is only necessary to refer to the letter itself. It yet remains to observe, that had all his complaints been just, he was bound by the Articles of War in the first instance to have applied to me for redress: if I had refused it, his appeal was open to the General; his not having done this is another evidence of his eagerness to criminate, and is in itself an act of high disrespect and insubordination.

The evidence, which I shall produce to the second and third charges, is so direct and positive, that I shall not have occasion to enter into any length of observation. I will merely beg leave to recall the attention of the Court to the statement of the prisoner on this subject. "Being severely wounded," he says, "a man caught him a horse which had been running about the field, (and evidently with its rider killed) which horse he was put on and conveyed to Brussels." It will be observed, that this is an answer to my enquiry respecting the taking out the mark. Now I shall prove that this horse was not caught for him, as he states; nor was it evident that it's rider was killed—I shall shew that Captain Tucker was already mounted, when he met a soldier on this mare, who was hastening to carry off his wounded brother—I shall prove that Captain Tucker immediately claimed her as his own property, ordering the soldier instantly to dismount; who in vain represented that it could

not be the prisoner's horse, as it had plainly the saddle and furniture of a dragoon—I shall then prove that Captain Tucker, though severely wounded, as he represents, dismounted the horse he was riding, and mounted this mare, commanding the soldier who had led him from the field to mount the horse he quitted and follow him, thus taking care to secure both—I shall prove that a foreign dragoon followed Captain Tucker, claiming the horse he had mounted the soldier upon; but that Captain Tucker paying no regard to his demand, pushed through the crowd, and made good his retreat to Brussels. In his explanation, the prisoner proceeds to declare, that "he understood a foreign mark had been on the horse, and which was taken out by a private servant which he had, while he was laying extremely ill in his bed, unable to move."

It will appear in evidence, however, that he did not consider this mark to be foreign—It will be stated that he at different times said, he thought the mare belonged to a British dragoon regiment; that, being informed that the wounded dragoon officers at Bruxelles were aware, that many of their horses were there, and were only led out at night for fear of being claimed by them; a conversation ensued, upon the best means of taking out the regimental mark. I shall then prove, that a composition was procured from a farrier at Bruxelles to effect the intended operation—I shall prove that at an early period of the process, the mare was taken to the door of the room on the ground floor, where Captain Tucker lay, that he might see how the work went on—I shall shew him afterwards in the stable, examining with attention the state of the wound, produced by the operation on both the horses.

Having thus conducted him with his prizes from the field of battle; having shewn his perfect knowledge and participation in the measures adopted to prevent their being claimed by the right owners; I shall produce the very officer that warned him from the beginning of the danger he incurred, and informed him of the General Order he was violating. The fact of his subsequently advertising the mare referred to in the second charge, in Galignani's Messenger, in which she is stated to be an English mare, will be given in evidence; and it will be proved that the price he asked was forty Napoleons.

The evidence to the third charge will be so nearly identical, and so connected with that of the second, that I shall not think it necessary to trouble the Court with the repetition; but shall rest the proof of both on the facts, that will be before them, adding only the testimony of Lieutenant Duhigg, to prove the actual purchase of the horse, referred to in that charge, from the prisoner; and the payment and

refunding of the money, when the horse was given up in consequence of my orders.

What defence, what circumstances of extenuation can the prisoner urge against such evidence as this? If he plead that his wound made it necessary he should ride; yet he could not ride two horses at once. He had taken and mounted one horse, which it seems was worth only ten Napoleons: he meets another he values at forty, and makes prize of both. He cannot plead ignorance of the order for delivering them up; his wilful disobedience of that order, his determination to convert those horses to his own use is demonstrated by the act of effacing the marks; a determination which he afterwards carried into effect, by the actual sale of one, and the public advertisement of the other. If further proof were necessary, the horses themselves might be produced; and on their mangled and disfigured sides is indelibly branded a living testimony against the prisoner!

If it were natural to feel reluctance to stand forward as the accuser of the prisoner, on the charges to which I have already directed the attention of the Court; every honourable mind must be sensible, how much that repugnance must be increased, by the nature of the remaining subject of accusation. The circumstances I shall have to detail will shew, to what necessity that repugnance has been forced to yield; and that the choice of the measures to be adopted did not rest with me.

When it was first understood, that the accounts of the late Captain Holmes, who fell in the action at Waterloo, could not be adjusted for the want of his books and papers; Lieutenant Colonel Hare, who had commanded that part of the regiment which was engaged there, wrote on the subject to the prisoner; who was known to have detained the baggage of Captain Holmes at Bruxelles. His answer to that letter will be produced, wherein he states, that he had disposed of the baggage of Captain Holmes for 121½ francs, and that there were no private accounts, or private letters, nor any money. Lieutenant Colonel Hare having reported this circumstance to me, I thought it necessary, upon the prisoner's arrival at the regiment, to speak to him on the extreme irregularity of his proceeding: but upon his solemn assurance, that the baggage was so very trivial, and of such little value, that it was not worth bringing forward; a circumstance, which he took great pains to impress on my belief; I was disposed to overlook his conduct, not knowing or imagining at that time, that he could have omitted the necessary precaution, of opening the baggage in the presence of some of the many officers of the battalion, who were at Bruxelles. Except the irregularity in detaining and disposing of these effects, at a time, when he must have known, that the senior

Major of the regiment, to whom the Articles of War assign that duty, was present in this country; I saw nothing in the conduct of the prisoner to call for reprehension. Was it possible that a shadow of suspicion should pass across my mind, that in this transaction, any imputation of a grosser nature could attach to an officer, bearing an honourable rank in the service; and with whom I myself was in terms of intimacy? The mind must be habituated to the contemplation of depravity, and conversant with that extraordinary abandonment of principle, to which human nature is subject; where such suspicion is readily admitted. I shall shew by what means it was awakened in me.

To arrange, as far as possible, the accounts of Captain Holmes, I ordered Lieutenant Colonel Neynoe, as senior Major of the regiment, to form a Board of Inquiry with the two senior Captains, to ascertain the amount of claims against the deceased; and to investigate such documents relative to them, as might remain; and report to me the result. The Colonel will himself state the difficulties, he met with in this attempt, arising from the variety of the claims preferred, the almost total want of any papers that could throw light on them, and the absence of Serjeant Kelly; who some time before had been Pay Serjeant to the deceased; but who was still detained by the state of his wounds at Bruxelles. The date of the report, made to me on this occasion, will shew; that it was not until very lately, that any adequate idea could be formed, of the claims existing against Captain Holmes.

In the course of the investigation of this business, several circumstances arose, of a nature to induce a more than ordinary degree of scrutiny. Those who had long known the character of the deceased, and had opportunities of being acquainted with his extreme punctuality and correctness in keeping his accounts, could not but be surprized to find an apparent deficit to so considerable an amount; and to be told that there were scarce any books or papers that might elucidate the subject. It was necessary to search the matter thoroughly; and the enquiry developed certain facts, which, accompanied by a number of suspicious circumstances, seemed deeply to implicate the prisoner.

I shall proceed to state what these were, and my statement will be borne out by the evidence. The deceased was in the habit of keeping by him always a considerable sum of money. He was known, a few days before the action where he fell, to have had in his possession a large number of doubloons. He was seen, on the morning of the 15th June, to take out of his portmanteau-trunk a large purse, containing, apparently, upwards of forty doubloons, out of which he gave two to his Pay Serjeant, and returned the purse again to his trunk. In that trunk he kept his memorandum book

of receipts and payments, and his most valuable papers. It will be proved what money was found on his person, when he was killed; but neither that purse, nor any doubloon but one was found upon him.

On the evening of the 17th, when the baggage was ordered to the rear, the deceased expressed the greatest anxiety about his trunk. He gave his bât-man most minute directions respecting it: but not satisfied with this, after the baggage had set off, he followed in the dark in a dreadful storm of rain, and when the roads were knee deep in mire: he followed through the crowd of baggage a considerable distance from the town, where the detachment halted; till he had overtaken his bât-man, whom he strictly enjoined, in case of being pressed hard, or being unable to keep up with the rest of the baggage; to throw away his bed, his canteen, and every thing beside: but not to part with that trunk but with his life.

What extraordinary infatuation must this have been, if the contents of that trunk had been worth no more than 121½ francs, as the prisoner has stated! But the deceased was not a man to misappreciate matters so egregiously; he declared to his subaltern, who rallied him on the subject, that he had good reason for his anxiety.

This trunk, safely locked and secured, was delivered, together with the whole of the baggage of the deceased, safely into the custody of the prisoner; who had stationed a Serjeant at the gates of Bruxelles, with orders to bring it to his lodgings. It was safely lodged by that Serjeant and the servant of the deceased in the bed-room of the prisoner.

When Lieutenant Miller, the subaltern of Captain Holmes, sent for this baggage; the prisoner refused to deliver it, stating, that he considered himself second in command, and therefore entitled to take charge of it; a right or duty which he did not think necessary to exercise with respect to the baggage of Ensign Ireland, who was also killed that day, and which the prisoner permitted to come on with the baggage of the regiment. When this circumstance was noticed to him by Lieutenant Miller, he assigned another reason, still more groundless, for not having complied with his demand.

It appears, that it must have been some time before the 10th July, that the prisoner, though he was aware on the 24th June, (as I shall prove by a letter of his own,) that the head quarters of the regiment had arrived in the country, ventured to break open the trunk and baggage of the deceased: for his letter to Colonel Hare, the extraordinary tone of which will be observed, is dated on the 9th.

In that letter he says, "there was no private accounts, or private letters." Now it will be distinctly sworn, that, besides

the papers in the trunk, there was a large bag, containing a great quantity of books of accounts and papers; and it will be proved that this bag was safely delivered into the custody of the prisoner. It will be proved, that a large mass of papers was taken up from the bed-side of the prisoner by his maid servant, who was ordered to burn them; and was informed they belonged to Captain Holmes, but were of no use. It will be seen that the papers given up by the prisoner, as being found in the baggage of the deceased, are mostly of little importance; consisting chiefly of company's old pay lists, muster rolls, and abstracts. It will be seen (and this is a very striking circumstance, and must be particularly noticed) that the last leaf of the memorandum book, on which the sums advanced by the deceased to his Pay Serjeant had been entered, has been torn out!

These are the facts; which, added to the circumstance of the trunk having been broken open in secret, (neither the subaltern of the deceased, who had shewn himself interested on the subject, as knowing the value attached by him to that trunk, nor any of the other officers of the regiment being present to witness the opening; and his never having, even to this day, given an inventory of the effects contained in the baggage) these are the facts, which strongly point suspicion against the prisoner.

I must now beg to detain the attention of the Court a short time; while I make a few observations on the nature of the evidence I shall produce; and on the presumptions, that naturally arise against the prisoner from the facts I have stated.

The very nature of this charge infers the impracticability of sustaining it by positive proof. An offence committed in secret and with premeditation, can only be detected by circumstances—the deeper the guilt and infamy of the offence: the more care will the offender take, to remove all evidence of the commission. In such cases crimes would be committed with impunity, and the worst and most dangerous class of offenders would escape; if such circumstances, as induce a violent presumption of guilt, were not allowed to be given in evidence against them. Circumstantial evidence, indeed, is often more satisfactory and conclusive, than the most direct and positive testimony; since a witness with the best intentions, and with the most perfect conviction of the truth of what he deposes, may be liable to error: but a number of circumstances, apparently unconnected, but all tending to the same point, are so difficult to be invented, and offer such facilities of detection and defence; that where they are not disproved, or shewn to be utterly irrelevant, they amount to the most perfect demonstration. In such cases incidents apparently trivial and inconsequential in

themselves, become important as forming links in that chain of evidence, upon the strength and perfect connection of which, conviction depends.

Considering, then, the circumstances I have stated, as bearing reference to the offence alleged in the fourth charge, the following reflections naturally suggest themselves.

From the known character and habits of the deceased; and the improbability, that he should have left himself without the means of meeting the claims existing against him; from the fact of his having been actually seen to deposit in his trunk a large quantity of golden doubloons, more than sufficient to meet those claims; it is natural to suppose, that the extreme anxiety he evinced respecting this particular trunk, when his baggage was sent to the rear, arose, from the circumstance of his money being still contained therein: a conclusion, which is strengthened by the fact of his having ceased from the day, that his baggage was sent off, to issue any more doubloons to his pay serjeant, and giving him ducats from the purse that was found on his person when he was killed: ducats it must be observed, which he had received on account of the company, and kept separate from his own money, which was contained in another purse, also found on his person. This trunk so highly valued by the owner, securely locked, the keys remaining in the possession of the deceased, is lodged in the bed-room of the prisoner, who claims the custody of it. He breaks it open without witnesses: and when called upon to send to the regiment the baggage of the deceased; then, and not before, he states that he had disposed of the whole, except a regimental jacket and some other trifle, for 121½ francs.

It is impossible not to be struck with the irregularity of this proceeding. It is natural to ask, why did the prisoner, if he considered himself acting officially, detain the baggage of the deceased; while he permitted that of another officer, who also fell at Waterloo, to proceed to the regiment? why did he break it open; when he knew that the senior major of the regiment and the other field officers were in the country; and that therefore his imaginary authority was superseded?

But if he had not known this, why break it open without proper witnesses from amongst the officers of the regiment, who were with him at Brussels? Or rather, why break it open at all; since his doing so, was a gross breach of duty without any justifiable motive to palliate the offence—since it could not expedite the settlement of the accounts of the deceased; for that could be done only at the head quarters of the regiment?

How much is the effect of these questions heightened; how much deeper does the responsibility of the prisoner become; when the destruction of the papers of the deceased is taken into account!

It will be proved, that Captain Holmes was most particular and exact in his accounts, and the last man in the world, to have left them in a state of confusion. His books would have shown the exact amount of his receipts and payments, and the amount of money in his hands. These books are delivered safely into the hands of the prisoner. Where are they now? The prisoner denies them to have existed. It will be proved they were burned by his order or connivance: the papers he preserves are either unimportant or mutilated: the last leaf in the entry of payments is torn out; leaving it open to conjecture, that more might have been issued by the deceased; during that period, of which the account is thus destroyed; and that the balance therefore in his hands would be less, but the mutilation is too visible to escape detection.

For what purpose then are these papers thus destroyed? With what intent are they thus mutilated? Why are they denied to have existed? The intent, the motive, the object are all too palpable. I shall spare myself and the Court the pain of dwelling longer on such a subject.

If the prisoner can assign any justifiable or reasonable motive for his conduct, there is no one in the Court who will receive the explanation with more satisfaction than myself; though I must still lament the inextricable confusion, the doubts and suspicions, which that conduct, from whatever motives arising, has produced—suspicions, which it became my duty to establish or to silence for ever; in justice to the memory and the relatives of the deceased; in justice to the honour of the military character; in justice to the prisoner himself.

This object could be attained only by the solemn decision of a judicial tribunal: and in this appeal to the laws, acting only officially as I do, upon the report of this transaction made to me as Commanding Officer, by establishing either the guilt of the prisoner, or by thus affording him an opportunity of vindicating his innocence, shall I have fulfilled the duty attached to my situation.

Prosecution on the First Charge.

Letters Nos. 1 and 2, being read to the Court by the Deputy Judge Advocate.

First Evidence.—Major General Sir JOHN LAMBERT being duly sworn—

Question from Prosecutor.—Do you recollect my waiting on you, on the 20th September, and showing you a letter I

had received from Captain Tucker, addressed to Lieutenant General Sir Lowry Cole ?—Yes I do.

Q. Did you give any opinion as to forwarding it to Sir Lowry Cole, according to the injunction of the prisoner ?— —Yes

Q. Did you communicate that letter to Sir Lowry Cole ? —Yes, I did.

Q. Did you give me any opinion, as to the necessity of taking notice of the prisoner's conduct by court martial ?—On seeing the charges and letters, I did not think it could be disposed of in any other manner, than by laying it before the Commander of the forces.

Prisoner to Sir J Lambert. Please to state, if Colonel Warren forwarded the letter to you open, addressed by me to Lieutenant General Sir Lowry Cole, accompanied by a copy of one likewise open, addressed to Major General Sir Manly Power.—The letters were both open.

Q. Did Colonel Warren express to you any intention of of producing charges against me, prior to his forwarding the letter from me to Sir Lowry Cole ?—No.

Q. Did he at that time express to you such an intention ? —I do not recollect that he did.

Second Evidence.—Lieutenant General Sir Lowry Cole being duly sworn, and the Letter No. 1, being shown to him—

Q. from Prosecutor. Was that letter officially forwarded to you ?—It was.

Sir John Lambert being again called upon—

Q. from Prosecutor. Did you forward Captain Tucker's letter officially to Lieutenant General Sir Lowry Cole ?—I gave it to Sir Lowry Cole.

Q. Did you consider the letter as forwarded to Sir Lowry Cole in the usual official manner ?—No, I gave it personally.

Third Evidence.—Ensign Ditnas, 27th Regiment, being duly sworn—

Q. From Prosecutor. Were you on board the same transport with Captain Tucker, on the passage from Halifax to Bermuda ?—Yes.

Q. On approaching the island, do you remember the ship striking on the rocks ?—Yes.

Prosecutor. State what passed at that time ?—Evidence. On the ship striking, Captain Tucker went on shore, and left Mrs Tucker on board.

Q In whose charge did he leave Mrs. Tucker and child? I do not recollect that he left her in charge of any person.

Q. Did Lieutenant Frazer address himself to Captain

Tucker, and say that if there was any danger he would take Mrs. Tucker on shore?—To the best of my recollection he did.

Q. Did Captain Tucker make any reply?—I do not think he did.

Q. After landing at Bermuda, did you ever see Captain Tucker and Lieutenant Frazer in company together?—I have seen them walking together.

Q Do you mean walking in a friendly manner?—I cannot say they were; they seemed in earnest conversation.

Fourth Evidence.—Major THOMAS, 27th Regiment, being duly sworn—

Q. from Prosecutor. Do you remember a conversation taking place, between you, Colonel Hare, and myself, in August last, near Colonel Hare's quarters in Paris, relative to an officer against whom Captain Tucker was supposed to have intended to prefer charges in the island of Bermuda?—Yes, I do

Prosecutor.—State the subject of the conversation.

Major Thomas.—I suggested to Colonel Hare, as senior Captain of the regiment in the country, the necessity of investigating into the conduct of the officer alluded to, previous to his joining the regiment. Colonel Warren, on its being represented to him, fully agreed with us; and said he would not allow that officer to do duty, until Captain Tucker joined the regiment; when the necessary inquiries should take place.

Q. from Prosecutor.—Did you attend a meeting of the officers of the regiment early in September, and were you informed of the object of that meeting?—I did; the object of the meeting was to inquire into the conduct of an officer of the regiment, whether he was a fit person to receive or not.

Q. Did Captain Tucker attend that day?—No.

Q. What determination did you come to, and what influenced your determination? -That the officer was to be received, no person having come forward to prove his having committed himself.

Q. Do you recollect an address made by me to the meeting, and any expression I made use of relative to Captain Tucker?—Yes, towards the latter end of your address to the officers, you particularly mentioned, that the officer in question was not to consider himself as having triumphed over Captain Tucker; that you would have an eye over him; and on the slightest misconduct would bring him to a Court Martial; and even in much stronger language.

Q. Did you ever hear of any resolution entered into by

the officers to place Captain Tucker in a state of Coventry? —None whatever.

Q. Did you not write a letter to me on the part of the Captains of the regiment, relative to Captain Tucker's obtaining leave of absence?—I did, and to the best of my recollection some time in September. [Here the Prosecutor produced the Letter No. 3. to the Court, which was allowed by Evidence to be the one sent by him.]

Q. Did you see Captain Tucker walking in the streets of Paris?—I did

Q. from Prisoner. Did not Colonel Warren say at the meeting, that he thought it was better I should not be present at it?—To the best of my recollection he did.

Q. Did any officer make an objection to Lieutenant Frazer's joining the regiment? if so, state who it was.—Colonel Thomson made an objection.

Q. Did you ever hear that Lieutenant Frazer's resignation had been sent by Sir Manly Power to the Horse Guards? —No, I did not. I knew he had sent in his resignation; but did not know that it was forwarded to the Horse Guards.

Q Did Colonel Warren state at the meeting my having begged leave to decline being present at it; and did he mention the cause of my wishing to be absent?—Yes, he did; the cause he assigned was, that your feelings would not permit you

Q. Did you never express, that it was necessary I should give my consent to Lieutenant Frazer's joining the regiment before he could do so?—No, I did not.

Q. Were you not aware that Lieutenant Frazer's business had been investigated by Sir Manly Power?—Yes, but I understood Sir Manly Power had waived inquiry into a part to Lieutenant Frazer's conduct which had come under his own observation

Q. Did you not know, or were you not informed, that Lieutenant Frazer had resigned at his own request, in consequence of that investigation?—I understood he had permission to resign, or stand a Court Martial.

Q. Who told you Sir Manly Power had waived his objection to Lieutenant Frazer's joining the regiment?—I cannot recollect; it was currently reported through the regiment.

Fifth Evidence.—Francis Downing, Esq. Inspector of Hospitals, being duly sworn—

Q. from Prosecutor. Did you grant Captain Tucker a certificate, to excuse him from duty?—I did. [The Certificate No. 4. is here produced and read to the Court.]

Q. Did you give Captain Tucker any particular directions or injunctions at the time you gave that certificate?—I, advised him, professionally, to keep himself quiet.

Q. Did you receive a letter from me on the 15th of September last?—I did receive a letter from Colonel Warren, but I do not recollect what particular day. (A paper No. 5, being produced to the Evidence, he states it to be a correct copy of that letter. This paper was read to the Court. A paper No 6, is also produced which Evidence states to have been his answer. It was read to the Court.)

Q. Did Captain Tucker wait on you, on the 17th of September, for a renewal of his certificate?—He did about that time.

Q. Did you grant it?—No, I did not.

Q. Did you give any instructions to the Regimental Surgeon on the subject?—I mentioned to him, that I thought Captain Tucker should be excused from field days; and I believe from pickets.

Q. Did you desire the Regimental Surgeon, to report your opinion, and the circumstances, under which you granted your certificate to the Medical Board, to which Captain Tucker applied for leave of absence?—I desired him to state, that I had refused to renew my certificate.

Q. from Prisoner. Did you state to Mr. West, that you had taken me from your report three days before the 16th of September?—No, I do not think you were ever in my sick report.

Sixth Evidence.—Surgeon West, 27th Foot, being duly sworn—

Q. from Prosecutor. Did you grant a certificate to Captain Tucker to appear before a Medical Board, and for what purpose?—Yes, I did; to enable him to procure a certificate, in order to obtain the usual allowances granted to wounded officers on similar occasions.

Q. Do you remember my sending to you, and shewing to you Staff Surgeon Downing's letter of the 15th of September; and stating to you that it was in reply to an application I had received from the Captains of the regiment, relative to Captain Tucker's application for leave of absence?—Yes, Sir.

Q. Did you wait on Mr. Downing in consequence, and what was the result of your interview?—I waited on Mr. Downing; and he told me that the letter he did not perfectly understand.

Q. After having seen Mr. Downing, did you not write to me the letter I now shew you?—I did. (The letter No. 7, is produced and read to the Court.)

Q. At the time it was conceived by the Captains of the regiment and the Staff Surgeon of the division, that Captain Tucker was capable of doing his duty, did you take any steps to ascertain the state of his health?—Not on the 17th, on the 20th I did.

Q. Did you not make me an official report on this subject on the 20th of September; and is not the paper I now shew you that report?—Yes. Sir. (The paper No. 8, is here produced, and read to the Court.)

Q. Had not Captain Tucker, previously to your being ordered by me to visit him with your assistants, reported himself to you in writing, as being extremely ill? —I have his letter in my pocket. (The letter No. 9, is produced, and read to the Court.)

Q. from Prisoner. Do you recollect my calling on you in my carriage on or about the 30th of September; and your coming to the door of it, when I asked you for a certificate of my wound?—I do.

Q. Did you send the certificate of my wound to me, the same evening, to Colonel Warren's quarters?—Yes.

Q. Did you on the 19th of September, receive a certificate of my illnes from Staff Surgeon Deare?—I did. (The certificate No. 10, is produced, and read to the Court.)

Q. Did you give me more than one certificate of my wound?—No, only one. (A copy of which No. 11, is laid before the Court by desire of the prosecutor.)

Seventh Evidence.—Lieut. Col. NEYNOE, 27th Regiment, being duly sworn—

Q. from Prosecutor. Did you attend a meeting of the officers in September; and what passed there?—I did: Col. Warren asked the officers of the regiment, whether they were satisfied to receive Lieutenant Frazer? They were unanimous in their opinion, that he should be received, with the exception of one officer. After the officers had agreed to receive Lieutenant Frazer; Colonel Warren addressed them, desiring that it might be impressed on the mind of Lieutenant Frazer; that though he was again received by the regiment, he was not to consider it as any triumph over Captain Tucker: on the contrary should he ever find him attempt to triumph over Captain Tucker, that he would bring him forward

Q. Did you ever hear, that a resolution had been entered into by the officers, to place Captain Tucker in a state of Coventry?—Never.

Q. Did Captain Tucker apply for leave of absence on account of his wounds?—I understood he did.

Q. Did you see Captain Tucker walk about the streets of Paris during the time, he was excused from duty on account of his wounds?—I saw him twice.

Q. from Prisoner. Who was the officer, that objected to receive Lieutenant Frazer?—Colonel Thomson.

Q. Did you not know or understand, that most of the officers would not speak to me in consequence of my letter to

Sir Manly Power?—I know that some of the officers did not speak to you; but I look on it as being more in consequence of your persecution of Lieutenant Frazer, than of your letter to Sir M. Power.

Q. Are you not aware, that most of the officers spoke to me before my letter to Sir M. Power?—I had no communication with you; and had no opportunity of knowing

Q. Did you never express at the mess of the 2d battalion (27th) after your arrival from America, that Lieutenant Frazer was a very unfit subject to remain in the 27th regiment; or words to that effect?—I do not recollect that I ever did: and I have to declare, that in two or three conversations I have had with Sir M. Power on the subject, he said he would be no bar to Lieutenant Frazer joining the regiment, if the officers agreed to it.

(The Court adjourned until ten o'clock of the 2d instant.)

November 2d, 1815.

The Court having met pursuant to adjournment,

Eighth Evidence.—Lieutenant Colonel HARE, 27th Regiment, being duly sworn, informs the Court—

That he remembers having had a conversation with Colonel Warren. As Mr. Frazer, who had joined the regiment, had been guilty of some misconduct in the West Indies (as had been understood) and as they were not acquainted with the circumstances or nature of the charges: he therefore requested, that Mr. Frazer should not be permitted to do duty with the regiment, until Captain Tucker had been written to on the subject. Colonel Warren made answer, that he was neither privately, nor officially, made acquainted with the misconduct alluded to of Mr. Frazer; but that for his own satisfaction, and that of the officers of the corps, the business should be explained; and that he would send the Adjutant to Mr. Frazer, to tell him the sentiments of the officers; and that he should not do duty with the regiment until Captain Tucker arrived. Evidence remembers being afterwards one of the senior officers, who called on Colonel Warren on the subject; to state to him, that it appeared to be the wish of the officers, as Captain Tucker had then arrived, that he might be called on to prefer his complaint; and suggested to Colonel Warren a meeting of the mess. The meeting was put in orders: and Colonel Warren stated to the officers at this meeting, every thing, that had come to his knowledge, of the transaction, that occurred in the West Indies between Captain Tucker and

Lieutenant Frazer: that he had entreated of Captain Tucker, and had done every thing in his power to induce him to attend the meeting of the officers to state his complaint—which Captain Tucker had declined. He called also on the few officers, that were present, who had been in the West Indies, to state what they knew of the business; which they did. Colonel Warren at the same time stated to the officers, that Sir Manly Power had promised him, that he would pass over, as far as rested with him, any of the complaints that had come to his knowledge respecting Mr. Frazer. After every thing had been stated by the officers, relative to the circumstances in the West Indies; Colonel Warren asked the officers to give their opinion whether Mr. Frazer was to be received or not: and they, with the exception of one officer, were of opinion he ought to be received; as Captain Tucker had refused to come forward. After the opinion of the officers had been taken; Colonel Warren said, that Mr. Frazer was not to conceive, he had triumphed in any manner over Captain Tucker; that he should be very circumspect in his future conduct; that the officers leaned to mercy, as there appeared nothing very serious against him; and that he was accordingly received by the officers.

Q. from Prosecutor. Did you ever hear of any resolution, or agreement, entered into by the officers, to place Captain Tucker in a state of Coventry?—Never.

Q. Have you ever seen Captain Tucker walking about the streets of Paris, when he was in the sick report?—I have seen Captain Tucker walking about the streets of Paris, when I understood he was in the sick report.

Q. Was it prior to the meeting of the officers?—I believe not.

Q. Was it before Captain Tucker was placed in arrest?—Yes, it was.

Q. from Prisoner. Did I not explain to you the circumstances, under which Lieutenant Frazer had quitted the regiment at Gosport Barracks, on the evening I dined at the 2nd battalion mess, when I sat next to you?—I do not recollect.

Q. Did I not explain to you at Ghent the circumstances, under which Lieutenant Frazer had quitted the regiment?—No, not to my recollection.

Q. Did I not tell you, among the circumstances of Lieutenant Frazer's retiring; that officer having been seen repeatedly drunk, in the streets of Bermuda, in the day time?—Not repeatedly: you told me, he had been seen drunk by Sir Manly Power in the streets of Bermuda in the day time.

Q. Did you express a determination, that Lieutenant Frazer should not join the regiment?—As long as I com-

manded, I was determined he never should; until his conduct was explained.

Q. Did not Colonel Warren express at the meeting, that he thought it better, I should not attend it?—I do not recollect. Colonel Warren stated to the officers, that he understood Captain Tucker's reasons for not attending, were, that it would be hurtful to his feelings.

Q. Who was the officer in the meeting, that objected to receive Lieutenant Frazer in the regiment?—Lieutenant Colonel Thompson.

Q. Did you know, that most of the officers did not speak to me, after I had written to Sir Manly Power?—I did not: I had heard it. Not being with the regiment, I could not have seen it.

Question from the Court. Can you state the day, on which Captain Tucker rejoined the regiment: and that, on which you called on Colonel Warren, to propose a meeting of the officers?—To the best of my recollection, Captain Tucker joined about the latter end of August: I spoke to Colonel Warren about a week or ten days afterwards.

(Prosecutor here produced Letters 12, 13, and 14, which were read to the Court.)

Ninth Evidence.—Surgeon GERALD FITZ GERALD, 69th Regiment, being duly sworn—

Question from Prosecutor. When you were in the island of Bermuda, do you remember seeing Captain Tucker and Lieutenant Frazer together?—I do, Sir.

Prosecutor. Relate your observations on the occasion.—Evidence. On my arrival at Bermuda, I heard Lieutenant Frazer and Mr. Galbraith were in arrest, for improper conduct, that had occurred on board ship, in the passage from Halifax to Bermuda. After my disembarkation on the island, I heard charges were to be preferred against Mr. Frazer for improper conduct to Captain Tucker; as well as for being seen drunk in the streets. The Court Martial did not take place, in consequence of Lieutenant Frazer's sending in his resignation. It appeared to me very singular. that so apparent an intimacy should exist, between Captain Tucker and Lieutenant Frazer.

Q. Was it soon after this, that Lieutenant Frazer went to England?—I do not know. The regiment left Bermuda, as well as I can recollect, before Lieutenant Frazer sailed.

Q. from Prisoner.—Do you know the cause of Lieutenant Frazer being in conversation with me?—I do not.

Q Did you see Lieutenant Frazer with me more than once?—I saw Mr. Frazer call at Captain Tucker's; and afterwards I saw them together in the square; but never saw them together more than once.

Q. Did you know afterwards the cause of Lieutenant Frazer's calling at my house?—I did not know the cause; but have since heard it was for the purpose of apologizing to you.

Tenth Evidence.—Adjutant BURNS, 27th Regiment, being duly sworn—

Q. from Prosecutor. Do you remember my sending you to Captain Tucker, respecting a horse he had belonging to the cavalry?—I do.

Prosecutor. State the order you delivered, when you required him to send the horse to the regiment, to be claimed.—Evidence. The orders were, that the horse should be sent to the head quarters of the regiment, and to be given over to the Quarter Master of the battalion; which was accordingly done.

Q. Did you afterwards speak to Captain Tucker respecting the mark, which had been taken out of the horse's side?—I was sent to him on the 19th September, to enquire, by what authority, or by whom that mark had been taken out of that horse. At the same time Colonel Warren told me, that it was a thing, which if he did not get at; he would have to report the circumstance to the Duke of Wellington, in order that it might be laid before a Court Martial.

Q. from Prisoner. Did you bring me an order from Colonel Warren on the 18th September, to find myself a quarter near the camp; and that if I could not find one, I must come into camp and live there?—Yes.

Q. Were not wounded officers of the battalion permitted to live out of camp?—At Neuilly, close to the camp.

Q. Do you not know, that I had long before tried to get a quarter at Neuilly; and that I could not get one fit for my family?—No, I do not.

Q. Did you bring me an order the same day from Colonel Warren, for me to return the order of the Duke of Wellington, for leave for my appearing before the Medical Board on the 19th of September?—I did.

Q. After I was put under an arrest, did you not bring me an order from Colonel Warren, that there was a room found for me near the camp, and that I must move to it immediately?—I told you there were quarters provided for you in the village of Neuilly, and that you would have to remove to them.

Q. Did you send me leave from the Adjutant General, for three weeks leave of absence to St. Denis, in consequence of a recommendation from the Medical Board?—I did.

Q. from the Court. Where was Captain Tucker residing, when he was ordered to remove to Neuilly?—At La Chapelle.

Colonel WARREN, 27th Regiment, being duly sworn—

Q. from Prisoner to Colonel Warren. Did I not dine with you at your quarters, the day before the meeting of the officers, which was at your quarters on the following day, the 8th of September?—You did.

Q. Did I not the same day I dined with you, beg to be excused from such a meeting?—You did. I did all I could to induce you to attend the meeting, short of a positive order.

Q. In begging to be excused from such a meeting, did I not state my reasons; and what were those reasons?—If you did state those reasons, they were what I mentioned the next day to the meeting, as arising from your own feelings.

Q. Did I not also represent to you, that if the officers should unfortunately decide on Lieutenant Frazer's joining the regiment. I should conceive myself very ill treated; and should be under the necessity of referring the business to Sir Manly Power?—I do not recollect such an observation.

Q. Did I not more than once, relate to you the circumstances of Lieutenant Frazer's quitting the regiment: and did you not tell me, you saw it was impossible that he could rejoin it?—When I first saw you, and conversed with you on the subject of Lieutenant Frazer; the idea then in my mind was, that Lieutenant Frazer could not rejoin the regiment without your approbation. You had taken great pains to do away from my mind the impression, that those Letters (Nos. 12, 13, 14,) which I have laid before the Court, had first made on me; stating strongly the worthlessness of the character of the Captain of the Navy, who had written one of those letters; and relating to me the conduct of Mr. Frazer in a very different light, from what I afterwards understood it to have been.

Q. Did I not tell you among other circumstances, that Lieutenant Frazer had been repeatedly drunk in the day day time, in the streets of Bermuda?—I am positive, only one instance was mentioned, of Lieutenant Frazer having been seen drunk, in the streets of Bermuda in the day time.

Q. Did you not afterwards beg me, to state in writing officially to you, my decision respecting Lieutenant Frazer's not being permitted to join the regiment: and if so, did you not receive an official letter from me on the subject?—I did. It was, I think, after the first interview I had with you. I did receive an official letter from you.

Q. To the best of your recollection, is this paper (No. 15) a copy of that letter?—I believe that to be the purport of the letter I received

Q. Did I not tell you, on or about the 30th August, at your quarters where I dined; that I had been the same day at Mr. West's for the certificate for the Medical Board, for my

going to England?—I cannot be positive as to the date, but I am sure you did.

Q. Did not the certificate come the same evening from Mr. West to me, at your quarters: and did not you forward the same to Sir John Lambert, with a recommendation for me to appear before a Medical Board, for the purpose of getting leave to go to England?—I recollect giving you a letter of recommendation; but I think it was to the Adjutant General.

Q. from the Court to Colonel Warren. Was Lieutenant Frazer's resignation ever forwarded to the Horse Guards: or had it been acted upon in any manner at the date of Captain Tucker's letter, No. 15, to you?—*The resignation was never forwarded, from the best information I can receive; and has never been acted upon.* Sir Manly Power said, he had written to the Adjutant General about it.

Court. You have stated, that Captain Tucker dined with you at your quarters on the day previous to the meeting of the officers; please to state whether you were at that time acquainted, by report or otherwise, with any part of the grounds of the 2d, 3d, 4th, and 5th Charges, as preferred against Captain Tucker?—I was acquainted with these circumstances—that Captain Tucker had in his possession the Bay Mare, which he said he had got at Waterloo. *The matters of the 4th and 5th Charges were investigating by a Court of Enquiry; but at that time did not appear at all of a serious nature.*

[Here closed the prosecution on the first charge.]

Prosecution on the Second Charge.

First Evidence.—Private JOHN ROURKE, 27th regiment, being duly sworn, informs the Court—

That, on the day of the battle of Waterloo, he was ordered to the rear with a man who was wounded; and in returning to the regiment, he met Captain Tucker, who made him go back with him. Captain Tucker was on foot; Evidence helped him towards the village: on the way they met a man of the 27th regiment who was Orderly to Major General Lambert. He was bringing an horse of the General's, wounded, to the rear: Captain Tucker was placed on the wounded horse. A short time afterwards Evidence saw Captain Tucker, mounted on a grey mare; and after that they met a man of the name of Weir, belonging to the 27th regiment, mounted on a bay mare. Captain Tucker asked,

Weir, how he came by *his* mare, and made him dismount and help him (Captain Tucker) on the bay mare; at the same time desiring witness to mount the grey mare, and follow him to Brussels.

Q. from Prosecutor. When you saw Captain Tucker on the grey mare, was he followed by a foreign dragoon, or soldier, who wanted to take the said mare from him?—When I was going to mount the grey mare, a dragoon wanted to take her from me: but Captain Tucker desired me to mount the mare, and follow him. The dragoon's cloak was on the mare.

Q. from Court. Was the dragoon's cloak returned to him?—No, the cloak came to Brussels, and was left in Captain Tucker's quarters.

Q. from Prisoner. How did Weir say he had come by the mare?—He said he had found her running about the field.

Q. What reason did I assign for getting on the bay mare, in preference to the grey one?—You said that the grey mare's pace hurt your leg.

Q. Was not the gait of the grey mare very rough?—I rode her to Brussels, her gait was very rough.

Q. Was not the bay mare brought close to the grey, and did not you help me on the bay mare without my walking? —Yes.

Q. Did I not appear to you to be in great pain at the time?—Yes, Sir, you were.

Q. from the Court. Were the appointments on the horses British or foreign?—On the bay mare the appointments were British: on the grey mare I do not think they were. The bay mare was marked L D. on the hind quarter.

Prosecutor. Was there a mark on the hind quarter of the grey mare?—Yes, there was.

Q. Have you seen those mares, since the marks were burnt out?—No, I have not.

Second Evidence.—Private Edward Weir, 27th regiment, being duly sworn, informs the Court—

That on the day of the battle of Waterloo, he found a bay mare in the field: that with it he assisted his brother, who was wounded, to the rear: that on his return he was met by Captain Tucker, who was mounted on a grey mare: that Captain Tucker asked him how he came by *his* mare, and damned him. Evidence then replied, that the mare was not Captain Tucker's; but was ordered to get off her, which he did; and then assisted private John Rourke in placing Captain Tucker on the bay mare. That Captain Tucker then desired Rourke to mount the grey mare, and follow him to Brussels: that at this time he saw a dragoon, cannot say

whether British or not, calling after them for one of the horses.

Court. Describe the mare and her appointments?—I found the mare without a rider; there was blood on one side the white sheep-skin, which covered the saddle; there were holsters for pistols; the bridle, I think, was English; the mare was short-tailed.

Q. from Prosecutor. How far did the dragoon follow you? —About two perches.

Third Evidence.—Private PATRICK M'GEE, 27th regiment, being duly sworn, states—

That he was in the rear at Brussels with the baggage, two days after the battle of Waterloo; that there was a bay and a grey mare in Captain Tucker's stables there: he was employed to take care of the horses until his arrival in Paris; that while he was with Captain Tucker his foreign servant took the marks out of both horses; the marks were on the hips.

Q. from Prosecutor. Did you at any time when Captain Tucker was confined to his bed, lead the bay mare opposite to his bed-room, for his inspection?—Yes, I did.

Q. Was it when the mark was burning out?—Yes, it was.

Q Did Captain Tucker look at the mark, to see the state it was in?—The mare was brought, that he might see a net fitted on her

Q. Was not the net lifted off the mare's hip, to shew the mark?—Yes.

Q. What was the mark burnt out with?—With vitriol, to the best of my knowledge.

Q. Did Captain Tucker ever make any observation to you about the mark, when burning out?—None.

Q. Did Captain Tucker's foreign servant speak English? —Yes, Sir.

Q. Had you any conversation with him on the subject of the mark?—He told me vitriol would take it out.

Q Did you ever see Captain Tucker examine the mark in the stable, when he left his bed?—He came on crutches to the stable-door, and looked at the mark.

Q. What price did Captain Tucker ask for the bay mare? —Forty Napoleons

Q. Did you ever hear Captain Tucker say, he thought the mare was an English one, after he got her?—Yes, Sir.

Q. from Prisoner After you were taken from me, were you not taken to Colonel Warren's quarters—and how often? —I was taken to Colonel Warren's quarters twice.

Q Were you not closely questioned, and cross-questioned, by Colonel Warren, concerning horses belonging to me, and on other subjects?—Yes, I was.

Q. Were you not also questioned and cross-questioned by other persons in Colonel Warren's quarters, and in his presence? If so, state who they were, and the nature of those questions. Yes, I was, by the Paymaster, and by Lieutenant Handcock respecting the horses.

Q. Were you threatened at any time after you left me, by Colonel Warren, with transportation?—Yes, the Colonel said, if I would vary in what I said, when before the Court, I would be transported.

Q. from the Court. By whose orders did you understand, the German servant burnt out the marks of the horses?—I believe by Mrs. Tucker's.

Q What reason have you for believing those orders were given by Mrs. Tucker?—The German servant told me so

Q. Had the German servant Captain Tucker's permission to burn out those marks?—He did not tell me.

Fourth Evidence.—Lieutenant Miller, 27th regiment, being duly sworn, informs the Court—

That he knew Captain Tucker, when at Brussels, had in his possession horses, which he had not before the battle of Waterloo: that he also was in possession of one himself, which he had found in the field. That shortly after, he was apprised of the Order issued by the Commander in Chief of the Forces, for the giving up of all horses, which had been taken in the field. In some days after he had occasion to call on Captain Tucker; and thinking he might not have heard of this Order, he informed him of it.

Q. from Prosecutor. Did you ever hear Captain Tucker say that the bay mare, was an English one?—Captain Tucker told me, she belonged either to the 10th or 12th dragoons.

Q. Did Captain Tucker say any thing to you about the mark?—Never.

Q. How was the bay mare marked?—She had an English mark.

Fifth Evidence.—Lieutenant Craddock, 27th regiment. being duly sworn, informs the Court—

That during the time he was at Brussels, after the battle of Waterloo, he visited at Captain Tucker's; and one day going through his stable, he found it full of horses, two or three of which Captain Tucker had not before: that he asked him where he had got those horses; and was answered, that he had picked them up at Waterloo.

Q from Prosecutor. Did Captain Tucker ever speak before you, of erasing the mark on the side of the bay mare?—He took part in a conversation, concerning the best method of erasing the mark from the mare.

Q. Was the grey mare also included?—No, Sir.

Q. Do you know, what mark was on the bay mare?—I am certain, it was that of either the 10th or 12th Dragoons.

(The Court adjourned to Friday the 3d instant.)

3d November, 1815.

The Court having met pursuant to adjournment,

Sixth Evidence.—Serjeant Major JAMES ARMSTRONG, 27th regiment, being duly sworn, states—

That on the 13th of September last, he received an order from Colonel Warren, to go to Mr. Galignani's office, and to purchase the paper of the 11th instant; which he did; and enquired of Mr. Galignani whether he had got a written order from the officer, for the insertion of a publication, advertising the sale of an English mare; he said he had not. Evidence then asked, if he knew the gentleman; to which he answered, it was "Captain Tucker, 27th regiment." Evidence then asked for Captain Tucker's address, which was given him—he sent the paper and address to Colonel Warren that evening.

Q. from Prosecutor. Did Mr. Galignani write this paper, (No. 16?)—Yes, Sir.

Q. from Prisoner to Colonel Warren. Did you ever express to me any sense of impropriety, in my keeping the bay mare in my possession?—Until I knew of the Duke of Wellington's order, I did not.

Q When you knew of the order of the Duke of Wellington, did you *then* express any sense of impropriety, until you gave orders for me to deliver her up?—*I immediately noticed it, by ordering the mare to be given up.*

[Here ended the prosecution on the Second Charge.]

Prosecution on the Third Charge.

First Evidence.—Lieutenant DUHIGG, 27th Regiment being duly sworn, informs the Court—

That he purchased the grey mare in question from Captain Tucker at Cambray, about the 12th of July last; for which he paid the sum of ten Napoleons (200 francs). That at this time the mare had a sore remaining on its side, as if an

attempt had been made, to erase some mark from it—That soon after joining the regiment, the Commanding Officer ordered him to return the horse back to Captin Tucker; which he did, at the same time receiving back his money.

Q. from Prisoner to Colonel Warren. Do you not know, that the little grey mare was returned by the dragoons to the Quarter Master · and is she not now in the possession of the Quarter Master?—She is in possession of the Quarter Master: she was sent back to me by the Adjutant General of the Cavalry, by the Deputy Provost Marshall as supposed to belong to the Belgian Cavalry. I considered it necessary to detain her, until the Court Martial was over.

[*Here ended the prosecution on the Third Charge.*]

Prosecution on the Fourth and Fifth Charges.

First Evidence.—Lieut. Col. HARE, 27th regiment, being duly sworn, informs the Court—

That being informed, the baggage of the late Captain Holmes, 27th Regiment, had been detained at Brussels by Captain Tucker: he wrote to him on the subject, desiring him to send to the regiment the books of the Light Company, and whatever effects had remained undisposed of, together with whatever money remained in his portmanteau: in answer to which Captain Tucker wrote the letter (No 17) which was read to the Court.

Q. from Prosecutor. Did you give Captain Holmes any money on account of his company; at what time; and in what coin did you give it?—About the 9th or 10th of June, I gave Captain Holmes £38 in ducats on his company's account. (A further paragraph of the letter No. 17, *marked No. 2*, was read to the Court.)

Q. from Prisoner. Are you not aware, that the sums given by you for the use of the men, must have been expended by officers commanding companies, by the time the battalion marched from Ghent to join the army?—I believe that to have been the case with only one or two companies. The rest of the officers were supplied with money on their men's account. It was not the case with Captain Holmes's company.

Q. Do you not recollect my telling you before I left Ghent, that I was so much in want of money for the men of my company, that I was obliged to draw a bill on my private account?—I do.

Q. from Prosecutor. Do you know any thing of Captain Holmes, as to his proceedings, with regard to his money

transactions with his company?—He appeared to be always extremely correct with respect to his company's accounts: more so than most officers.

Q. What part of the sum given to Captain Holmes might have been expended upon his company's account, previous to his baggage going to the rear?—I should think none. In a conversation, which I had with Captain Holmes, upon giving him the £38 in ducats, he told me, he had a considerable sum in hand, which he had brought from the West Indies, and which he meant to get rid of previous to his touching what he then received.

Second Evidence—Paymaster G W. CROWE, 27th Regiment, being duly sworn, informs the Court—

That it appears by his accounts (which he produces to the Court,) Captain Holmes had received as per receipts, [illegible] of £385 between the 12th and 16th of May last. on his company's account Captain Holmes at that time stated to him, that he had a large sum in hand in doubloons belonging to his company

Q. from Court. Up to what period had Captain Holmes received money for the payment of his company, including the sums you have now mentioned?—Up to the 24th of May. (Evidence here produced a receipt of Captain Holmes for the sum of £20 on his private account.)

Q. from Prosecutor. Was Captain Holmes exact or otherwise in his company transactions? -He was extremely particular and correct; and kept his own books when on board ship.

Q. from Prisoner. Did you not receive a letter from me from Brussels, requesting you, to pay the amount of the sale of part of the late Captain Holmes's effects to Lieutenant Colonel Hare; and to charge it to my account?—I received a letter from you from Brussels, in answer to one, I had written to you, respecting some men of your company and Captain Holmes's company; the balance of whose accounts had been applied for by the Secretary at War; but whose accounts I could not settle, for want of Captain Holmes's books. In that letter you may have desired, that I would credit so much to Captain Holmes's account, on account of his effects sold: but I do not recollect it. In a note you afterwards wrote me a month or five weeks since, you mentioned, that you had made that request in a former letter; and I credited the sum accordingly to Captain Holmes.

Q. from Prosecutor. Have you seen a book of Captain Holmes's, which has had a most material leaf, of money issued, torn out?—I have seen that book: it is a book, in which Captain Holmes kept a memorandum of money, issued to his Pay Serjeant.

Third Evidence.—Assistant Surgeon MOSTYN, 27th regiment, being duly sworn, states—

That at Portsmouth he had a conversation with Captain Holmes; in the course of which Captain Holmes stated, that he had purchased a quantity of doubloons, for which he had paid at an enormous rate; but that as they were for the company, he would be no loser

Q. from Court Did you understand from Captain Holmes, that he purchased those in Portsmouth; or had he brought them from the West Indies?—He said he purchased them at Portsmouth.

Q. Do you know whether Captain Holmes had any doubloons in his possession when on board ship; and to what amount?—He had, I should think, ten or twelve.

Fourth Evidence.—Serjeant THOMPSON, 27th regiment, being duly sworn, states—

That on the 15th of June, at Ghent, Captain Holmes had a purse containing a quantity of doubloons, of which he gave evidence two for the company's subsistence, and put the remainder in his trunk He took out of the purse about eight or twelve doubloons, and there still remained some in it.

Q. from the Court. Can you speak more precisely, as to the quantity of doubloons Captain Holmes might have had in his purse?—I cannot; he subsisted the company with doubloons from the period of their arrival in the country, with the exception of £20 English money: and on the march of the 16th of June, he gave me three ducats, out of a green silk purse, which he took out of his pocket. Evidence further adds, that the purse in which Captain Holmes had his doubloons, was a large white silk purse, too large to carry about him.

Q. from Court.—When Colonel Warren questioned you at his quarters, respecting what money Captain Holmes had in his possession at Ghent; what answer did you give him?—I gave the same answer I have given to the Court; that I supposed there had been 30 or 40 doubloons.

Q from Prosecutor Was not the netting of the purse so wide, that you could see the contents through it?—No, it was not.

Q Did not Captain Holmes also issue to you a number of dollars previous to the 15th of June?—He gave me ten dollars at Ostend the night we disembarked

Q. Did Captain Holmes always enter in a book the sums he paid you; and in your presence?—He always entered them; but not always in my presence. He was a very correct man.

Q. Did you see the book of entry, when you received the last sums at Ghent?—I did, it was lying on the table.

Q. Did you ever see Captain Holmes's pocket-book, and of what colour is it?—Yes, I saw it in his portmanteau; it

was red, and seemed full of papers and notes: it was a large pocket-book.

Q. from Prisoner Can you state if Captain Holmes left the purse with the money in it, when his baggage moved off from Ghent on the 15th of June; and also the pocket-book, you mention?—I cannot say

Q. Do you know if Captain Holmes opened his portmanteau on the 16th, at Ascke, where we halted for the night: and do you know if he opened it on the 17th, at a village where we halted for the night?—I do not know as to the 16th; on the 17th I know he did not.

Q. from Prosecutor What money or other articles were found on Captain Holmes at the time of his death?—There were found on his person two purses, the one orange, the other green, and his gold watch. In one purse were some large pieces of gold; and in the other a number of ducats. [An orange purse is produced, which Evidence believes to be one of those found on Captain Holmes]

Q. Who took the money and other effects from Captain Holmes's person?—A medical officer of the 32d took one purse; and after he went away, I took the other purse out of his waistcoat pocket. A man, who assisted in carrying him down the field, took out his watch, which I took from him and gave to the Surgeon.

Being asked by the Court which of the purses he had taken, Evidence said he could not tell

Being further questioned whether the large pieces in the purse were doubloons, he also answers that he could not tell.

Being again desired to consider what quantity of money Captain Holmes might have had in his purse, at the time he gave him the two doubloons at Ghent, Evidence says, he thinks there was as much in the purse, as what he at the time had in his hand, viz from eight to twelve doubloons.

Q. from Court. Can you say that the money, which remained in the purse, consisted of doubloons?—I cannot say.

Q. Out of what purse did you receive the dollars at Ostend?—He gave them me out of his pocket.

Q. What number of doubloons had you received from Captain Holmes for the subsistence of the company, from the period of your arrival in the country?—Eleven.

Q. Up to what period was the company subsisted to, previous to Captain Holmes's death?—Up to the 15th of June.

Fifth Evidence—Assistant Surgeon Lawder, 32d regiment, being duly sworn—

Prosecutor. State to the Court what you know respecting the property found on the person of Captain Holmes, 27th regiment.

Evidence. Having been called upon by Serjeant Thompson to see Captain Holmes, who was wounded, I went to

him The Serjeant told me, he knew there was a considerable sum of money on his person; and begged I would go and take charge of it. I did so, and found the two purses (which had been produced) in his breeches pockets. In one were seventy seven golden ducats; in the other were one doubloon, two half ditto, four 4-dollar pieces, four double Napoleons, four Louis d'ors, and two Napoleons. I also got his silver watch. I am not perfectly positive, whether the purse with the Spanish money was taken by myself, or given me by the Serjeant; but both were taken in my presence: nor am I exactly positive as to the variety of coin in the Spanish purse.

Q. from Prosecutor. To whom did you give over the above-mentioned effects?—To Mr. Nicholls, Purveyor's Clerk to Mr. Usher.

Sixth Evidence.—Lieutenant MILLER, 27th regiment, being duly sworn, informs the Court—

That on the march from Ghent, Captain Holmes was particularly careful and anxious about his baggage, especially on the evening of the 17th June; at which time Captain Holmes declared his baggage to be worth to him, twice as much, as he would be allowed for it, should he lose it. Evidence being wounded was sent to Brussels; and about ten days after, his baggage, as well as Captain Holmes's, arrived there; which baggage Evidence ordered to be brought to his quarters: the answer he received was, "that Captain "Tucker would not allow Captain Holmes's baggage to go "from under his own care, he being second in command." Some days after, Evidence went to Captain Tucker's quarters; and asked why he had received such an answer: when Mrs Tucker told him, no such message had been sent. Captain Tucker asked him, what day he would come and see the baggage opened. The next time he called on Captain Tucker, Mrs. Tucker mentioned, that they had opened Captain Holmes's baggage; and "you never saw what a mi-"serable kitt of things—and there was no money or papers." Captain Tucker then asked, if Captain Holmes's servant was a trust worthy man; as some of the things might be given to him, they being so bad he was ashamed to sell them. Captain Tucker then asked, what he would advise him to do; to which he answered, sell them; what is the use of keeping such things? Some days after, Captain Tucker shewed Evidence a letter from Lieutenant Colonel Hare, in consequence of which he ceased selling any more of Captain Holmes's effects. The night before Evidence left Brussels, he sent to Captain Tucker to say, he would take any of the effects, which remained unsold, to the regiment. Captain Tucker sent him a jacket and wings nearly new, a waistcoat, a sash, and all the papers that remained; as also the ledger

of the company, and a memorandum book. (Which memorandum book and papers are produced to the Court.)

Q. from Prosecutor. Might not Captain Tucker have had several officers of the 27th regiment present, at the opening of the baggage?—Certainly he might.

Q. Were Captain Holmes's effects publicly disposed of or not?—I do not know.

Q. Describe Captain Holmes's portmanteau?—I cannot.

Q. Did Captain Tucker, at any time when you called on him at Brussels, mention the papers and books, that were found in Captain Holmes's baggage? I understood from Mrs. Tucker, in presence of Captain Tucker, that no private papers whatever were found.

Q. from Court. Of what articles did Captain Holmes's baggage consist?—Besides the portmanteau, of a canteen, and bag. It constituted a heavy load for a horse.

Q. from Prisoner. Was I second in command of the battalion at the battle of Waterloo?—You were.

Q. Was it not within your knowledge, that the bât-horse belonging to the late Captain Holmes was so dreadfully galled by the baggage, that its proceeding in that state after the army with the baggage became impossible?—The horse's shoulder was very very bad when I saw it, about eight or nine days after.

Q. Do you remember telling me, that there was an Order in Brussels to detain the baggage of the officers, that had been killed; and also that the effects of several officers, who had been killed, were selling to any one, who would buy them?—I do not recollect mentioning such an Order. I mentioned that several officers' baggage had been sold off.

Q. Did I request you to be present at the opening of the portmanteau and canteen of Captain Holmes?—You did ask me.

Q. Was not your answer—It is not worth while being present, as I know the whole of the contents; I would not give £5 for the whole?—It is impossible I could have said so.

Q. Did you not use the words "I know poor Holmes had a very bad kitt?"—I do not recollect.

Q. Do you recollect my shewing the inventory of the effects afterwards?—I do not recollect.

Q. Did I not ask you to purchase something of Captain Holmes's, which you declined?—Yes, the new jacket and wings.

Q. Do you not recollect saying, that you knew what money Captain Holmes had he carried about his person?—I certainly never told you, that all the money he had was about his person.

Q. from Court. Where was the servant with the baggage

during the two days, you said they were absent?—I do not know; I believe at Antwerp.

Serjeant THOMPSON, 27th regiment, being again called in—

Q. from Court Have you seen Captain Holmes make any entry in his usual account book, of any particular sum, issued on account of the company, from the 1st May to the 15th June?—Yes, the sum of £200 after the 24th May.

Q. Can you, from your own memorandum book, shew to the Court the sums you have received?—[The Serjeant's account book produced, shews the various sums received by him.]

Seventh Evidence.—Private JOHN ELLIOTT, 27th regiment, being duly sworn, informs the Court—

That he was servant to Captain Holmes: that on the 20th June he delivered his master's baggage to Captain Tucker: that Lieutenant Miller sent the next day to Captain Tucker for Captain Holmes's baggage, which Captain Tucker refused to send, as he said he was second in command. That on the night of the 17th June, Captain Holmes charged him, in the event of not being able to carry away the whole of his baggage, to part with the tent, canteen, bed, &c. but not to part with the portmanteau, unless he was taken prisoner.

Court. Describe the portmanteau?—Evidence. It was a square leather portmanteau with a lock, and a leather cover over the lock. He is sure the portmanteau was locked, when he gave it up to Captain Tucker: he left it in Captain Tucker's bed-room by his order.

Q. from Prosecutor. What state was the mare in, when you delivered her over at Captain Tucker's quarters, had she a sore back?—No, she had not; she had a small sore on her shoulder.

Q. from Court. Did you lose any baggage on the road?—No, I did not.

Q. Where did you pass the two nights previous to your giving up the baggage?—The first night I passed within a mile of Antwerp, with a great deal of baggage belonging to different regiments; the second night within seven miles of Brussels.

Q. Could any thing be taken out of the portmanteau without unlocking it, by lifting up the ends of it?—No, there could not

Q. from Prosecutor. Was the regimental baggage in charge of an officer?—Yes, it was.

Q. In loading or unloading the baggage, had you ever any reason to suppose, there was money in the portmanteau?—No, I had not.

Q. from Prisoner. Was the officer of the baggage with it

when you arrived at Brussels?—No, he arrived some time afterwards.

[*Here the Court adjourned to the 4th instant.*]

4th November, 1815.

The Court having met pursuant to adjournment,

Eighth Evidence—Serjeant FRANCIS PAPA, 27th foot, being duly sworn, states—

That he was with Captain Tucker on the day, that Captain Holmes's baggage arrived in Brussels; Captain Tucker was at the time changing his quarters: that he was ordered by Captain Tucker to take the baggage (consisting of articles as appears by former evidence) to his new quarters; where Evidence saw the baggage placed in Captain Tucker's bed-chamber. He there examined the locks, and found them all sound.

Q. from Prisoner. What induced you to examine the lock of the portmanteau?—Before I would give it to the servant, in consequence of an order from Captain Tucker, to see the baggage all safe.

Ninth Evidence.—Private ANDREW ELLIOTT being duly sworn, states—

That he was servant to Captain Holmes: that on the night of the 17th June, when the baggage was ordered to retire, Captain Holmes gave particular directions to his bâtman; in case of not being able to get away, to throw away his tent, canteen, and all his baggage, except his trunk. That Captain Holmes had frequently given him charge, not to leave his quarters, when he himself was absent, as he kept his money in his portmanteau. The last time he gave him these orders, was at a village near Ghent.

Q. from Court. What articles had Captain Holmes in his trunk?—A new regimental jacket, a sash, three pair of grey pantaloons, of which two pair were new, six pair of new worsted socks, four new shirts, four pair of old boots, and one pair of shoes. He had other shirts, but I do not know the number. He had two blue coats in his bed. He had with him in a small vallise on his horse, one shirt, one razor, and two pair cotton socks.

Q. In what state was his canteen and bedding?—His canteen was completed at Ghent; there was in it four silver tea-spoons, one table-spoon and fork, and forty francs worth

of tea. What tea could not be put in the canteer, was wrapped up in the bed-case. The bed was complete with two double blankets, mattress, and pillow-case, and one pair of sheets.

Q. In what kind of purse did Captain Holmes carry his gold?—He carried it in a long white canvas bag.

Q. Did you ever see Captain Holmes's pocket-book?—I did, it was a red pocket-book, about the size of a memorandum-book; it fastened with a strap.

Tenth Evidence—Lieutenant Colonel NEYNOE, 27th foot, being duly sworn, states—

That as Major of the 27th regiment, he was ordered to sit as President of a Board of Enquiry, in order to settle the accounts of the late Captain George Holmes. That in consequence of the old ledger, and several other memorandums and documents, not being forth-coming, the Board of Enquiry have found it impossible to settle those accounts.

Q. from Prosecutor. Did the mutilation of the memorandum book produced, occasion any difficulty in settling those accounts?—Decidedly so

Q. Was the warrant for Captain Holmes's staff pay among the papers delivered to you?—No, it was not: I received it from Major Thomas: it is now again in possession of Major Thomas

Q. from Prisoner. At what time did the Board of Enquiry on Captain Holmes's accounts sit?—On the 6th October; it should have sat earlier, but I waited for a schedule of the effects sold by you, which I have not yet got.

Q. Was the Board of Enquiry put in regimental orders?—No.

Q. Did you demand from me any explanation relative to the effects or papers of the late Captain Holmes?—No, I did not.

Q. What effects did you receive belonging to the late Captain Holmes?—I got two horses, a jacket and sash, I do not recollect getting any thing else.

Q. Did you not get any horse appointments?—I do not recollect; I might have two horse collars.

Q. Did not Lieutenant Miller deliver to you a saddle and bridle?—Never.

Q. Did Lieutenant Miller make any remarks to you, when he joined the battalion from Brussels, respecting the little value of the things sold by me, belonging to the late Captain Holmes?—I do not recollect.

Q. Did not Lieutenant Miller say, that he knew the baggage was not worth five Napoleons?—I cannot say, I do not recollect having any conversation with Lieutenant Miller on the subject.

Eleventh Evidence.—Colonel WARREN, 27th regiment, being duly sworn, states—

That from the representation which he had received, respecting the sale of the baggage, and the want of books, and various papers belonging to Captain Holmes, which should have been forthcoming; and of which he was informed, before Captain Tucker joined the regiment from Brussels; *he desired Lieutenant Colonel Neynoe to form, with two captains of the regiment, a Board of Enquiry to assist him in settling the accounts of Captain Holmes, whenever Captain Tucker should join the regiment.*

When Captain Tucker did join, he himself repeatedly told him to attend this Board; and further, from a representation of Lieutenant Colonel Neynoe respecting the non attendance of Captain Tucker, Evidence again repeated to him the necessity of his attendance.

Twelfth Evidence.—Major THOMAS, 27th regiment, being duly sworn—

Q. from Prosecutor. Were you a member of the Board of Enquiry, and did Captain Tucker ever attend, or did he send to the Court a list of Captain Holmes's effects?—I was a member of the Board of Enquiry: Captain Tucker did not attend: he sent no list to the Court: none was produced there.

Q. from Prisoner. At what time did the Board of Enquiry sit?—Some time, I think, about the middle of October.

Serjeant THOMSON, 27th regiment, being called upon, states—

That he was Pay Serjeant to Captain Holmes's company, at the battle of Waterloo.

Q. from Prosecutor. Do you know what books Captain Holmes had, belonging to his company at that period, and where were they carried?—He had three Ledgers, they were, I understand, carried in his bed.

Serjeant KELLY, 27th foot, being duly sworn—

Q. from Prosecutor. Were you employed by Captain Holmes at Ghent in settling the back accounts of the light company?—I was employed in settling my own private accounts with him.

Q. from Court. What company's books had Captain Holmes at that time?—He had a ledger, containing the accounts for seven months up to March last.

Q. from Prosecutor. Is that Ledger now with the Company?—No.

Thirteenth Evidence.—Mrs. CATHERINE FERGUSON, being duly sworn, states—

That she was servant to Mrs Tucker at Brussels, and was ordered by her to burn some papers; a large quantity of them; and among them, a red leather cover of a book, with blue paper inside She was endeavouring to pick up a bit of clean paper, when Mrs. Tucker desired her not to mind saving any of those, as they were only some old papers belonging to poor Captain Holmes. There was a great quantity of paper, more than she could carry in her arms.

Q. from Prosecutor. Had the cover of the book any strap to it?—No, Sir.

Q. Where did you take up those papers?—In Captain Tucker's bed-room.

Q. Was Captain Tucker in the room at the time?—Yes, Sir, he was

Q. from Prisoner. Did you burn any company's book or ledgers with the papers?—No, Sir.

Q. Court. You have said, in answer to a former question from Captain Tucker, that there was no company's books or ledgers, did the paper which you burned, appear to belong to Company's books?—*There was long and short paper written all over*

[A red morocco leather pocket book was produced to the Evidence, who states, that the cover of the book she burned was of that colour.]

Q. Do you know any thing of Captain Holmes's portmanteau?—No, I do not.

Q. from Prisoner. Did the papers which you burned, appear to have been ever folded?—There were some of them folded; they appeared to be greatly tossed.

Q. How many days were you in Mrs. Tucker's service?—I cannot say.

[Here ended the prosecution.]

(The Court adjourned until the 8th instant.)

Versailles Nov. 8th, 1815.

The Court having met pursuant to adjournment, and the prisoner,

Captain John Tucker, 1st battalion, 27th regiment, being put on his defence;

read the following Address to the Court:

Mr. PRESIDENT, and Gentlemen of this Honourable Court;

AFTER a service of near 20 years, nearly the whole of which have been passed in the 27th Regiment; I am for

the first time in my life, brought before a military tribunal, to answer to charges, which if proved, must deprive me not only of the means of support of myself and my family; but also of what is still dearer to me, that honest reputation, which hitherto has been the hard earned reward of so long a period of service Some of the crimes, which are imputed to me in the charges, and which this honourable Court is called upon to investigate, are of so gross a nature; that not only my character as an officer, but even that of a man of common honour and honesty, must be affected by them. Yet standing, as I now do, for judgment with all the awful responsibility, which Colonel Warren states I have drawn on myself, I do not shrink from the investigation either of my conduct, or of the motives which have actuated that conduct. Every thing, that can possibly be dear or sacred to me is at stake. I abide with confidence on the issue; well aware that neither the rank of my prosecutor; the artful address, with which he has opened the prosecution; the studied ability, with which it has been conducted; nor the conclusions, which he has thought fit to draw, will in the smallest manner influence the minds of those, by whom I am to be judged; nor the unbiassed opinion, which will be the result of this investigation.

The Prosecutor in his address to the Court, sets out by stating the reluctance, with which he has instituted this prosecution; which, he avers, has been solely undertaken from necessary zeal for the service, and for the honour and credit of the regiment he commands It is not for me to arraign or question his motives; the Court I am fully persuaded will fully appreciate them: but I cannot refrain from expressing my firm conviction, that had he not judged it necessary to bring me to trial on the first charge, the remaining ones never would have been adduced against me: and I think it will clearly be seen by the Court, that the origin of this prosecution must be sought for, in my rejection of Lieutenant Frazer's re-admission into the regiment, and the letter, which I thought myself compelled to write, to the General of Division in consequence. It is this letter evidently, which forms the basis of the prosecution, and is the subject of the first charge; it is this letter which the prosecutor comments upon with so much acrimony, in the opening of his address, and which he emphatically terms the "gauntlet of defiance." A letter written, as therein stated "under the influence of acute anguish, of sorrow, agitation of mind, and distressed feelings," surely might be more charitably interpreted, than to be converted into "the intemperance of resentment at being ordered to my duty, and being obliged to relinquish, what I had endeavoured to secure to myself, with so much pains and risk; to a wish to evade,

enquiry by appearing to seek it; or to gain credit for unconsciousness of error, by a dissembled candour."

The Prosecutor might well say "I appealed from his authority, and flew to a higher one for protection and justice." I certainly did. I presume that I may be allowed to state, that this right of appeal being fully established and recognized, it can only be in the manner of it, in which I have erred; and I adopted no other method of making my complaint to that higher authority, than by sending my letter to Lieutenant General Sir Lowry Cole, and the copy of the previous one I had written to Major General Sir Manly Power, in an open envelope to Colonel Warren, requesting, not positively enjoining, as the prosecutor states, that they might be immediately forwarded. This mode of appeal, I conceive to be as perfectly correct, as the nature of the circumstance would admit. It was certainly making it through the regular channel, and also fully apprising the prosecutor of the nature of my supposed grievances; it was the only means, by which I could obtain redress of them: and I trust the Court will do me the justice to believe, that I was not actuated in writing this letter by any of the sinister motives, which the prosecutor has been pleased to impute to me; but merely by those which I have avowed in the letter itself.

It will next become necessary for me to prove, that the statement therein contained, so far from being a calumnious and libellous misrepresentation, is founded in fact. And to do this, I confess it is with great pain and reluctance, that I feel myself compelled to enter into the whole transaction between Lieutenant Frazer and myself; not with any intention to criminate that officer; but to prove most incontrovertibly that after what had passed between us, it was utterly impossible that I could give my consent to his being re-admitted into the regiment.

The charge now under consideration, is unfortunately of such a nature, that I canrepel it by no other means, than by proving the truth of the assertions contained in the letter, which has been described by the prosecutor "as a libellous accusation, as direct as it is false, and the effrontery of which is only to be equalled by its malignant absurdity."—These are harsh terms; it is for the Court to decide whether I merit them or not. The Court is already in possession of a copy of the charges, on which Lieutenant Frazer was to be arraigned at Bermuda. The disgraceful conduct therein attributed to that officer, during the passage from Halifax to Bermuda, was the common subject of conversation in the regiment, and so notorious; that Major Sir Thomas Read who commanded, judged it absolutely necessary to make an official report of it to Major General Sir Manly Power. In

consequence of which, Lieutenant Frazer was put in arrest; and it was during the time that he was under arrest, that he committed himself in the manner, which forms the subject of the fourth charge; which did not emanate from me, it being added by the order of the Commanding Officer of the regiment, who acquainted me, that among others, Sir Manly Power himself, had in one instance been witness to the disgraceful conduct alluded to.

It will be necessary to apprise the Court, that there was another officer implicated in the transaction, which forms the subject of the three first charges: that they were both in arrest; that a General Court Martial had been ordered for investigation of the charges against them: and that the officers composing it, had actually assembled; when a letter was addressed by both, to Sir Thomas Reade, requesting his interference with Sir Manly Power, to prevent their being brought before the Court; expressing their deep sense of the impropriety of their conduct towards Captain Tucker, and the service in general; their readiness to make every concession; and a tender from the one, who had purchased his commission, to be allowed to sell it; and on the part of Lieutenant Frazer, who stated he had no other means of support, to retire from the regiment upon half pay. Sir Manly Power not being in the garrison at the time, the Court was adjourned for two hours, at the request of Sir Thomas Reade, until his decision could be obtained; which was, that late as this application had been made, he would yet accede to it; provided it met my approbation, and that the parties concerned would address a letter of apology to me, to be dictated by me, and which letter was to be inserted in General Orders. This decision was acted upon in the fullest extent. The letters were published in General Orders, accompanied by the following General Order, "Ensign G—— having expressed a wish to retire from the service, and Lieutenant Frazer from the 27th regiment, these officers are hereby granted six months leave of absence for that purpose." Major General Sir Manly Power will himself corroborate the truth of this statement; will inform the Court that he made an official report of the circumstance to the Horse Guards, and received an answer, communicating the approval of His Royal Highness the Commander in Chief to the arrangement proposed; and which, as far as it affected one of the parties, actually took place.

I have been accused by the Prosecutor, of having been on the most intimate terms with Lieutenant Frazer at Bermuda, and of leaving my wife and child under his charge. That this latter occurrence is most completely contradicted, and that the other is so far from being proved, that it is only said, I was seen once in the streets with Lieutenant Frazer,

and once he was seen coming from my quarters: such was the case. Once Lieutenant Frazer came up to me in the streets, and said, he had been the day before to my quarters, to apologize to Mrs. Tucker for his unmanly and ungentlemanlike conduct to her while on board the ship from Halifax to Bermuda; and further informing me of several circumstances of his conduct, which he said he had drawn on himself.

It is not necessary for me to detain the Court with the detail of this conversation. I shall only observe, that here ended, what has been called my intimacy with Lieutenant Frazer.

On my arrival at Paris in the month of August last, I was surprised to find Lieutenant Frazer had made his appearance here, with intention of rejoining his regiment. This was communicated to me by Colonel Warren at his own house: telling me at the same time, that Sir M. Power had said to him, that Lieutenant Frazer could not join the regiment without my consent; and requesting me to communicate to him the particulars of the transaction between that officer and me, which had been the cause of his leaving the regiment. In obedience to this request, I entered into a minute detail of the whole transaction, making Colonel Warren acquainted with all those particulars, which I have now related to the Court; and nearly in the same words.

The result of this was a decided opinion on the part of the Prosecutor, that Lieutenant Frazer could not rejoin the regiment—this opinion of course I could not but consider as final. That such was the opinion of Colonel Warren at this interview, I can prove, from his having expressed himself in the same terms to an officer in the regiment, who will appear before this Court. About ten days after this, Colonel Warren renewed the subject, and proposed an interview with Lieutenant Frazer and me at his quarters; which I begged leave to decline, on the ground, that as I conceived the business finally settled, it could be of no use, and could only hurt my feelings, without being of any advantage to Lieutenant Frazer. The prosecutor then proposed; that since a personal interview would be unpleasant, that I should write a letter to him expressive of my sentiments on the subject, and my decision; in order that it might be officially shewn to Lieutenant Frazer, as it would prevent any further trouble. This I complied with, and accordingly wrote the letter No. 15; a copy of which has been laid before the Court, and admitted to have been received by the Prosecutor. After this, it was impossible that I could conceive, that Colonel Warren could have any intention of allowing Lieutenant Frazer to rejoin the regiment. On the 7th of September, which was about ten or twelve days after-

wards, an order was issued, that the officers were to meet the Commanding Officer at his quarters on the following day. On enquiring of the Adjutant, if he knew the cause, he told me, that he believed it was concerning Lieutenant Frazer's business. I dined that day at the Prosecutor's house, by a previous invitation; and after dinner, being alone together, he asked me, if I would attend the Meeting to-morrow concerning Lieutenant Frazer's business? To this I expressed my surprize, at such a Meeting being deemed necessary; and begged to be excused attending it; giving as a reason, that I thought the officers had no right to arrogate a power, they did not possess, after the official communication to the Horse Guards, which had been made by Sir Manly Power, and received the sanction of the Commander in Chief: and I added, I should conceive myself ill used by such a Meeting, the subject of one of the charges against Lieutenant Frazer, being of a personal nature against myself; but that if such were his orders I should of course obey them. His answer was pointedly, that he did not wish me to come against my inclination: in consequence of which permission, I did not attend the Meeting: but I most solemnly declare, that before we parted, I most respectfully told the Prosecutor, that should the result of the Meeting be, the reception of Lieutenant Frazer by the officers of the regiment; I should conceive it my duty to lay the circumstance before Sir M. Power, as an act beyond the limits of their authority; to which the Prosecutor replied, "but you know, a corps of officers can do a great deal." The Meeting actually did take place on the following day; and although nine officers were present at that meeting, who were at Bermuda, and who were perfectly acquainted with all the circumstances, as was Colonel Warren himself from my narrative of the preceding evening; yet did they decide on receiving Lieutenant Frazer, notwithstanding they must have known, that Major General Sir M. Power had before decided on the point in question. Thus was he received by the corps, appointed to a company, and put on duty—but not the smallest communication made to me on the subject, on the part of Colonel Warren. As soon as I heard of it, which was not until the third day, I wrote the letter to Sir Manly Power, which has been laid before the Court by the Prosecutor, and delivered it in person. The Major General will, himself, inform the Court, the steps he thought necessary to take on this occasion; which terminated in an order, reversing the decision of the officers, and preventing Lieutenant Frazer from doing further duty with the regiment.

It now becomes my duty to point out to the Court, the causes which induced me to write the letter to Sir Lowry Cole, of the 19th of September; which is the subject of the first charge: and if I am enabled, as I trust I shall be,

clearly to demonstrate to the Court, that the complaint alledged by me in my letter to Sir Lowry Cole, has been a just one; if I can prove that Lieutenant Frazer, under such disgraceful circumstances, was re-admitted into the regiment—that in consequence of my letter he was removed from it—that I was immediately after put in a state of Coventry by the officers—that it was then, and not till then, that the Captains thought it necessary that I should take my duty—that it was then, and not till then, that the bay mare in question was ordered to be given up in so peremptory a manner, without any previous communication to me; although Colonel Warren knew it was in my possession long before, and when I obtained it, and the fact of his suffering two officers of the regiment, to retain horses they got at Waterloo, and which horses still remain in their possession with his knowledge, gave me, surely, a reason to think myself harshly treated. If it was then, and not till then, that I was obliged to find a quarter near the camp; and if not, forced to live under canvas, although I had a wife and family; and that means were to be resorted to, for preventing my obtaining leave of absence.—where is the calumny or the libel of this letter, which forms the substance of the charge now under consideration? The very striking coincidence of dates, most positively shews, that all these circumstances took place immediately after my letter to Sir M. Power; and as is almost proved by Lieutenant Colonel Neynoe's evidence. How then, as the prosecutor states, have I aimed at the very principles of discipline and subordination, by availing myself of the only alternative in my power, to seek that redress, my situation rendered so absolutely necessary?

A few days after Lieutenant Frazer had been ordered not to do duty with the regiment; Lieutenant Smith came to me, and acquainted me with the circumstance, telling me, at the same time, that he understood Colonel Warren was highly incensed against me, in consequence of the letter I had written to Sir M. Power, and of the result of it; and that from what he could see and hear, he thought that most of the officers would not speak to me in consequence of it; and that the Captains had written, or were about to write an official letter to Colonel Warren, in order that I might be obliged to return to my duty. The observations of this officer, in a very short time, received a full confirmation. The first I met, was Lieut. Duhigg, whom I accosted in the usual manner of friendly salutation; but who passed me without speaking to me. Thinking he might not have seen me, I rode after him, calling him by his name; but he most positively declined any conversation with me. I immediately afterwards met Lieutenant Harnett, from whom I received a similar reception. Many others absolutely avoided me, when they saw me approach; and it was evident to me, that I was in a state

of Coventry with most of them. Having expressed this to Lieutenant Smith, he took an opportunity of asking Lieutenant Duhigg, the reason of such conduct; the answer was conclusive, and put the thing beyond a doubt: "the reason he did not speak to me, was, because of Lieut. Frazer's business; and as the other officers would not, he would do the same." This I shall prove, by positive evidence; and also, that another officer being questioned as to his motives, observed, "that as Colonel Warren had supported them in Mr. Frazer's business, they were now determined to support him."

The date of Colonel Warren's letter to Captain Downing sufficiently proves the time, at which the Captains determined, that I should no longer be excused from duty. My letter to Sir Manly Power is of the 11th September; that of the Prosecutor's to the Staff Surgeon, the 13th, or 14th. A letter is written by the Captains of the regiment, protesting against my obtaining leave of absence; and, assisted by the Surgeon of the regiment, they actually succeeded in preventing my obtaining that leave. To prove this assistance on the part of the Surgeon, I shall produce an officer, who was present with me on the 30th August; when I requested him to give me such a certificate of my wound, as would enable me to lay it before the Medical Board, that I might obtain leave to go to England: that he consented to it without any hesitation, and wrote the certificate, which has been produced to the Court. Col. Warren asserts pointedly, in his address to the Court, that this certificate was given merely for the purpose of obtaining a year's pay; and that I had converted it into an instrument to obtain leave of absence. The fact is, that the certificate was requested by me of the Surgeon, for the express purpose of leave of absence; given by him under that idea; and forwarded by the Commanding Officer for that purpose; who in my presence wrote a letter to Sir John Lambert, stating, that he had inclosed Mr. West's certificate, for the purpose of obtaining leave of absence for Captain Tucker to proceed to England, and which he begged leave strongly to recommend. This letter I took myself to Sir John Lambert's quarters; and the Prosecutor, in answer to a question of mine, admits, that he did recommend, that I should obtain leave of absence. What, then, becomes of Colonel Warren's assertion, of my misapplication of this certificate? Or, what reason can be assigned, why the leave, recommended on the 30th August, should be thus cruelly prevented on the 18th September; except, that the one was before my letter to Sir M. Power, and the other after it?—Then it is, that Mr. West finds it necessary, to write a letter to the President of the Medical Board, which was to assemble on the 19th, stating, that he understood from the Staff Surgeon, that I

was fit for all duties, except field days. In consequence of this communication, Dr. M'Dougal told me; that as Mr. West had further stated, that the certificate, he gave me, was not for the purpose of appearing before the Board for leave of absence, he was afraid it would not be in the power of the Board, to recommend me for the leave I wished. But, notwithstanding this extraordinary interference on the part of the Regimental Surgeon, the Board still gave me three weeks leave of absence from the regiment to St. Denis; which was *officially* communicated to me by the Adjutant General; and which official memorandum I now produce to the Court. Will the Court allow me to describe the different situations, in which I was placed on the 7th September, and the following days? On the 7th September, I am in habits of the most perfect intimacy with the Commanding Officer, and the Officers of the regiment. I went on that day to Versailles with a family party, in my own carriage, with the Prosecutor's wife, and dined at his house. On my return on the 8th, the meeting of the officers takes place, and Lieutenant Frazer *is* received into the regiment. On the 11th I made my representation to Sir M. Power of this act of injustice. And on the 12th, in consequence of my representation, Lieutenant Frazer is removed from the regiment; and I am immediately afterwards placed in the situation, described in my letter to Sir Lowry Cole of the 19th. What reason could possibly be assigned for this complete change, in the course of a very few days; but the one, alledged by me in my letter to Sir Lowry Cole, and which has, in fact, been admitted by Colonel Neynoe, and will be proved to have been the sentiments afterwards of the officers, who were accidentally questioned on the subject? Then it was, that the wounded state of my feelings urged me to write the letter to Sir Lowry Cole; which forms the subject of the first charge; and which has been so severely animadverted upon by the Prosecutor in his address to the Court.

With respect to the letters, which have been produced from certain individuals, who were passengers on board the Clarendon, at the time, when the conduct of Lieutenant Frazer called for my animadversion; and for which conduct he was put in arrest on his arrival at Bermuda; I must be allowed to express my extreme surprize, that that officer, having such testimonials in his favour, could have been induced to resign his commission, rather than stand a Court Martial. These letters are dated at Bermuda, but do not appear to have been made use of by him, until his arrival in this country: the individuals were on the spot, at the time the resignation took place: their evidence would certainly have been called for on the part of Lieutenant Frazer, had the Court Martial taken place; I can therefore draw no other

inference, than, that he must have been persuaded of the inefficiency of what these persons would have adduced in his behalf; or that the letters themselves are not authentic—at any rate they are not legal evidence, unless they can be authenticated upon oath to be the hand-writing of the persons whose signatures they profess to bear.

I think it indispensably necessary here to make a digression; and which I am enforced to, both in justice to myself, and to prevent an unfavourable impression from resting on the minds of the Court; and to take notice of an assertion made by Major Thomas in his letter to Colonel Warren; in which he boldly states, that since I have had a company, I have been the greatest part of the time absent from the regiment. This is an extraordinary assertion I was certainly once near a twelvemonth from the regiment, when it was quietly stationed in Sicily, and when he was with it. But was I as quietly stationed? No: a dangerous and active service was mine at the time; employed in the organization of Spanish patriots; and with a body which, among many other affairs, fought under my command at the glorious battle of Barossa. And it was during this service, that I received the particular thanks of the late Lieutenant General Campbell for my conduct, in an arduous and dangerous undertaking. So much for my being absent from my regiment.

If I was conscious, that I stood alone, with respect to the matters of the second and third charges; and that the commission of a similar offence but seldom came under observation; I would not attempt to defend an action which would then be rendered indefensible: but when I find, both from my own knowledge, and the information contributed by others, the crime, so emphatically dwelt on by the Prosecutor, to have been frequently committed; and its commission far from secret; I feel assured, particularly from the peculiar circumstances of my case, that the Court will perceive the impropriety to have arisen from ignorance, rather than intentional delinquency. The fact, of officers having obtained horses at the battle of Waterloo in a like manner, I believe to be generally known; and but rarely censured. Several instances I am myself acquainted with; and have no doubt, but that such instances have come under the observation of many officers. There are but few officers who, if severely wounded, would reject the means of conveyance, their situation rendered necessary. When the body is suffering acute pain, the mind has seldom leisure to balance nice distinctions; particularly, when they offer no feasible objections to impede the course of our wishes. But these are general assertions; I will enter more particularly upon the subject of the charge, and prove my conduct on the occasion to have,

been neither actuated by such injustice or impropriety, as the Prosecutor would attach to it.

When severely wounded at the battle of Waterloo, and unable to proceed, from severe pain and weakness, I sent the man, who assisted me to the village, to try if he could find a surgeon to dress my wound; in his absence I observed a foreign soldier, standing under a gateway with two horses. I immediately asked him, if he would let me have one, to convey me to Brussels; he said he would sell me the grey mare, (which was then wounded) as she had come from the enemy, if I would give him five Napoleons: the urgency of the case admitted not of delay; I instantly complied with his demand, and mounted her by his assistance. I had only proceeded a few paces, when the roughness of her gait, from the nature of my wound, much pained me. It was then, that I saw the Evidence, Edward Weir, mounted on the bay mare, adverted to in the second charge. Here it is necessary for me to remark, that the Prosecutor has positively stated in his address, that Weir was in the act of "hastening to carry off his wounded brother;" when it has been proved, and by the man's own confession, that he had already conveyed him to the rear, and was rejoining his regiment, at the time I met him. This misrepresentation being detected, will happily acquit me of having deprived a soldier of a horse, at a time, when he was so humanely and charitably employed The occasion he had for the bay mare having ceased, and my unpleasant and painful situation considered, induced me to require him to give her up to me: and to cause his more immediate compliance, I told him, she belonged to me. The man, John Rourke, whom I had dispatched for a surgeon, had, a short time previous to this, returned: and now, with his assistance, and Edward Weir's, they removed me from one horse to another, as stated by them; but not by dismounting, as stated by the Prosecutor. I now proceeded on my journey, desiring Rourke to mount the grey mare, and follow me. The bustle, the confusion, and the crowd on the road to Brussels upon that memorable evening, might be partly conceived. Judge, then, if I was not anxious to proceed; and was rendered uneasy by an altercation taking place between Rourke and the man, who had sold me the horse; which was occasioned by his wanting a grey cloak, fastened on the mare; and which the other did not understand. Angry at this detention, and knowing it would take some time to unfasten it, I desired Rourke to proceed instantly; which he did accordingly.

I have now put the Court in possession of those circumstances, which the Prosecutor dwells upon with such minuteness;—circumstances, which he has heightened with a degree of acrimony, which I cannot but observe and lament; and

which must have been perceived by the Court. The plain unsophisticated nature of the facts I have related, corroborated, in many instances, by the Prosecutor's Evidences, and dictated by the simple truths alone, will, I hope, be duly appreciated.

Perhaps it may not be wrong in this place, to review the circumstances in question, with respect to the heinous construction, which has been so pointedly applied to them. I have been accused of having forcibly deprived a foreign soldier of a horse; and it has been plausibly argued against me. To this I have opposed the simple facts. And will it not appear from them, that, instead of forcibly detaining the grey mare, I instantly gave the sum required for her? But it has been stated, that the previous owner of the mare wanted to take her back, and followed me some time for that purpose! Now, is it possible that a man, perfectly unacquainted with the foreigner just mentioned, should clearly understand the tenour of his conversation; whether he called for the cloak; or for the horse. It will appear evident to all; that a person, severely wounded as I was, and particularly so near the knee. the rough gait of the grey mare must have been particularly distressing: and it was natural for me, when a feasible opportunity presented itself, of procuring another animal, to avail myself of it. But it is the manner, which has been censured; and it now remains for me to explain it to the Court. It has been proved, that Edward Weir was in the act of rejoining his regiment, after carrying his wounded brother to the rear, when I met him; and could therefore have no further occasion for the bay mare he then rode. It is almost unnecessary to state, it being so well known, that a soldier has no business to be mounted, when with his regiment: and therefore that Weir, having performed the duty, for which he says the mare was procured, he had no right to refuse her me. I trust I have thus satisfactorily accounted for the manner, in which I got possession of the two mares, mentioned in the second and third charges. The first I conceived to be actually and bonâ fide my own property: she had evidently belonged to the enemy; and I had paid the person, who was in possession of her, the money he required. With respect to the marks, which have been effaced from the animals, I declare most solemnly, that I never saw them, until means had been resorted to for effacing them: and that the operation was, as I verily believe, the spontaneous action of a foreigner, at that time in my service. I most unequivocally deny joining in any conversation, respecting the best means of taking out the marks. That I inspected the animals afterwards I will not attempt to deny: but it was then too late. No attempt was ever made by me to conceal the horses; or the manner in which they had been

obtained; my having them was known to all the officers; and one of them particularly, by Col. Warren. When the motives which urged me to take possession of the horses were justifiable; it is only by keeping them in disobedience of the orders of the Duke of Wellingtom, that I have erred. In order to do away with this, I have to state; that this order, so much dwelt upon, has never been officially promulgated either to me, nor the officers of the regiment, either by appearing in the Orderly Books, or otherwise: and I never heard of it, until the horses in question had been actually removed from my possession, by order of Col. Warren Lieut. Miller, indeed, states, that he mentioned, in my presence, that such an order had been issued: but I most decidedly avow, that I have not the slightest recollection of the circumstance; and, even admitting it to be the case, it could never be considered in the light of an official communication. The horses in question, were immediately given up to Col. Warren's order. The grey mare I had bought, and conceived I had a right to sell; but, in obedience to order, I returned the money I had received for her; and at this moment have derived no advantage from the transaction.

I now beg leave to call the attention of the Court to that part of the Prosecutor's statement, relative to the 4th and 5th charges. To oppose to each paragraph of that statement, the evidence which has been adduced in support of it; and to make such remarks, as the nature of the case may suggest.

He commences by stating, that the late Captain Holmes was in the habit of keeping by him a considerable sum of money; but this has not even attempted to be proved; and as Col. ——— * has not sworn to his written statement, his assertions cannot in any way affect me as evidence. How little they have proved by testimony or oath, I hope to make most fully apparent. He then states, that the deceased was known, a few days before his death, to have had in his possession a large number of doubloons; and that he was seen on the morning of the 15th June to take out of his portmanteau a large purse, containing apparently upwards of forty; out of which he takes two, and returns the rest. The only evidence to that effect is that of Serjeant Thompson, who says, that on the 15th of June Capt. Holmes had a purse containing a quantity of doubloons, out of which he gave him two, and returned the rest: on being asked if he can ascertain the number remaining, he first says he cannot; but afterwards, being desired further to consider, he thinks there might have been as many as he had in his hand at the time, namely eight or twelve. On being asked, if the remainder of the money in the

* This blank agrees with the office copy of the Minutes of the Court Martial.

purse consisted of doubloons, he cannot say.—There is something very extraordinary in the evidence of this serjeant.—It appears, that he had been previously questioned by the Prosecutor; and that his opinion then was, that there were upwards of forty in the purse. By this Evidence before the Court, the coin in the purse could not have exceeded twenty-four pieces; but were they doubloons, he cannot say. However, for the smallest glimpse of suspicion to be attached to me, it is certainly necessary first to prove, that this purse of gold was actually in the portmanteau, not only on the 15th, when the serjeant says he saw it; but, also, that Capt. Holmes, nor any other person, had access to it, from the time the serjeant saw the trunks locked, on the morning of the 15th, until it was delivered into my charge, on the 19th. But neither of these things are apparent in the evidence. Serjeant Thompson cannot swear, that the purse contained doubloons at the time, except those which Capt. Holmes returned into it in his presence. But, even supposing there were twenty, or twenty-four, doubloons in the purse, what becomes of this trunk afterwards? What evidence has the Prosecutor adduced, to convince the Court, that from the morning of the 15th, at Ghent, no person had had access to it, until it finally leaves the regiment, or until it is placed in my charge? Serjeant Thompson takes upon himself to swear, that it was not opened on the 17th; but he cannot swear for the preceding day; and, therefore, all the evidence we have of the existence of this purse in gold, in the portmanteau, is Capt. Holmes's anxiety, when it went to the rear.

It is far from my wish, to attach criminality or suspicion to any other person; but on enquiring into the character of Capt. Holmes's bât-man, it will appear to be by no means a good one Is it not possible, that this man's attention being so particularly called by his master to this trunk, he may have been tempted to possess himself of the treasure? Is it not equally possible, that Capt. Holmes had removed this purse from his portmanteau, and had it on his person at the time of his decease? Assistant-Surgeon Lawder finds one purse, and leaves the body—Serjeant Thompson afterwards finds another—a third person finds a watch. In whose care was Capt Holmes, while Serjeant Thompson goes for a surgeon? For it is natural, that the mind should more easily give its faith to things which are probable, from most usually happening, than to matters which are repugnant in their probability God forbid, that I should accuse any of these persons of this theft; but because Serjeant Thompson saw a purse in the possession of Capt. Holmes on the 15th, at Ghent, Col. Warren boldly charges me, with absolutely stealing it from his portmanteau, on the 19th, at Brussels, or some time before the 10th of July, without once adverting

to the various hands, which this trunk passed through, in the interval. The same argument might be applied to the rest of of the missing or mutilated articles. What proof is there that the pocket-book ever arrived in my possession, or that the mutilation of the memorandum book took place with me? The baggage was two nights on the road, in the middle of a crowd of people, and soldiers of different regiments. The Court may recollect the bât-man mentioning, (although I see it is not entered in the proceedings,) that one night he unloaded the baggage in a barn, and that he left it, at one time, to go to a field to look for forage for the horse. Col. Warren has asserted, that I stationed a serjeant at the gate of Brussels, and conveyed it in safety to my own quarters: this is an evident misrepresentation, which has not even been attempted to be proved; but in order clearly to explain this to the Court, I shall proceed to mention all the circumstances, attending my taking possession of this baggage

I arrived at Brussels on the evening of the action; and having no quarters there, established myself, for the night, in the apartments of an officer of the 81st regiment who was on guard. The next morning, it was natural for me to enquire about the baggage; and heard from several persons, that it had been seen on the road to Antwerp I therefore sent on my servant in search of it, with a message to the officer of the baggage guard, that as the greatest number of officers were wounded, and at Brussels, I would advise it to be brought there the servant mistook the road, and never fell in with it at all—the baggage, however, came in the course of that day, not in charge of an officer, but in a straggling manner: and the people who were with it, hearing I was in town, and the senior officer, found out my lodgings, and came to enquire about their masters. Having ordered my own up, and given the servants every information in my power respecting the situation of the officers, it was then, that I received the first intimation, that Capt Holmes's baggage was at my door, from his bât-man; who stated, that he heard his master was killed; and that the animal was in such a state, that he could no longer carry the baggage. Was there any thing extraordinary in my giving directions, that it should be unloaded, and placed in safety in my own quarters? was it not my duty to do so as a friend to the deceased? did it not become imperatively so as the senior officer of the regiment at Brussels? and th second in command in the country?

It has been dwelt upon by the Prosecutor, that I took no steps concerning the baggage of Ensign Ireland, who was also killed. The answer is plain; — this baggage did not come to my quarters; neither did I know, till three days afterwards, that this officer had been killed. Having thus unfortunately taken possession of Capt. Holmes's baggage, from motives

both of private friendship and of public duty, I certainly did not conceive myself authorised to deliver it up to the requisition of Lieut. Miller. It now only remains for me to prove, and that most incontrovertibly; that conceiving, as second in command, that the responsibility rested upon me; and not knowing at the time, of the arrival of the Head Quarters of the regiment. I did open and inspect the baggage of Capt. Holmes, and that, in the presence of an officer of the regiment, who is now in attendance, and whose positive testimony, on oath, I have to oppose to the unfounded and unsupported assertions of the Prosecutor. He will inform the Court, of the manner in which this baggage was opened and inspected. It was he, who took an inventory of the different articles; who was present at the sale of them; and who, in conjunction with me, minutely inspected every paper, before any thing was consumed How then can the prosecutor have asserted, that the trunks were broken open in secret, neither the subaltern of the deceased, nor any other person being present? Has he forgotten, that in his own quarters, on the 17th of August, (*two days after my arrival here,*) I told him, who was present at the time? or, has he thought, that this material witness, being in England for the recovery of his wounds, he could not attend? It would appear, by the statement of the Prosecutor; that it was not until he had received Col Neynoe's Report of the Court of Enquiry, that causes of suspicion existed, that I had committed the robbery, and the consequent mutilation and destruction of Capt. Holmes's baggage, which are ascribed to me in the 4th Charge, and in the 5th Charge: and Col. Warren in his evidence states, that he had repeatedly directed me to attend the Court, and that Col. Neynoe had represented to him my non-attendance. * Now it will be seen, by the evidence of Col Neynoe, that this Court did not sit until the 6th October

* The similarity of this passage, and some others, with the defendant Scott's libel, is too apparent, not to be observed; and yet Colonel Warren, agreeably to what Mr Scarlett stated to the Jury, is unwilling to believe, Captain Tucker to have been the author of the libel. However, the misrepresentation, which appears wilful, is easily explained. Colonel Warren formed the Board of Enquiry in the month of August, before Captain Tucker arrived at regimental quarters. That gentleman did arrive shortly afterwards about the latter end of the month; on which Colonel Warren immediately, and repeatedly, desired him to attend the Board, as stated in the Colonel's Evidence. Captain Tucker not attending the Board of Enquiry, nor giving any information, on which the Board could act, the members did not consider, their meeting, and doing nothing on the subject they were called together upon, as a Sitting And therefore, agreeably to the Evidence of Lieutenant Colonel Neynoe, and Major Thomas, the Board did not *sit until the month of October*, when the members drew up a report, stating Captain Tucker's non-attendance: but Colonel Warren had opportunities of desiring, and did desire, Captain Tucker to attend the Board of Enquiry, long before he was in a state of arrest.

(Major Thomas says the middle of October,) because they waited for a schedule of the effects. Now I was put in arrest on the 21st September, by a letter from Col. Warren, (now produced) and on the 27th the Prosecutor sends me a copy of the charges, (also produced) signed and sealed by him in his own hand writing. How then was it possible that, being in a state of arrest, and furnished with the Charges alledged against me, that I could attend a Court of Enquiry, of whose existence even I was ignorant, and who, I presume, were employed in the investigation of these very Charges, or, at least, as much of them as related to Capt. Holmes's effects.

I had no communication whatever with the Prosecutor after the 7th September, except by letter; and even admitting, that he had previously mentioned to me the necessity of attending this Court, which I positively deny, was it not in his power to enforce the attendance? Was it not, indeed, his duty to have inserted, the Court of Enquiry, in regimental orders, and to have directed the attendance of any person, who could have elucidated the accounts, which were to come under their consideration? I never knew of the existence of this Court, until it had finished its deliberations, and then heard of it merely by accident. But however ill I may conceive myself to have been treated, during the preliminary stages of this prosecution; I cannot but rejoice in the means which are now offered me, of exculpating myself from the odious imputations, which have been alledged against me.

The Prosecutor has himself asserted, and his evidence in support of the prosecution fully justifies the truth of his assertion, that the very nature of this Charge implies the impracticability of sustaining it by positive proof. How then shall he sustain it? Does he suppose, that invidious reflections on the character of an officer will have any weight with this honourable Court, unless supported by a connected chain of evidence? Does he suppose, that all the circumstances he has already adduced, distracted, and miserably deficient as they are, bear any proportion to the decisive tone of the Charge in question? He cannot: his experience in the service, his knowledge of the laws of his country, must convince him to the contrary. How then does he act on the occasion? Conscious of the impossibility of supporting his charge, in the manner it might be supported, he flies from positive proof to inconsistent surmises; and, by an extraordinary assertion, infuses the superiority of circumstantial detail, to the plain nature of unsophisticated fact! And has he, indeed, produced, as his address promised, a connection of circumstances, so linked together as to offer perfect demonstration? Has he produced that conviction in the minds of his audience, he labours so earnestly to effect? The judgement of the Court must decide the question: they will no

doubt perceive the plausible sophistry of his arguments, and his perversion of the dearest rights of an Englishman, when accused, namely, a plain and direct proof of his guilt before condemnation.

I have now concluded the recital of such facts and observations, as seemed necessary for my exculpation, and to their fallacy or justice the decision of the Court must testify. I am well aware, at the same time, that they can bear no comparison with the long and studied address of the Prosecutor, assisted as he has been, by time, and by all the interest, which his situation and rank in the regiment affords him. I have only opposed to his assertions the simple truth; and I hope, I have made it appear evident to all.

The state of my wounded feelings, on the present occasion, are not to be expressed; they mock the efforts of language to describe them, and harrass a mind, already afflicted beyond measure. It is not for myself alone that these emotions arise—I have relations, I have friends, who wait in trembling anxiety, the result of my trial; who dwell with amazement and sorrow on the charges preferred against me! I have a wife and infant child; who depend upon me for support; the tenor of whose feelings can only be imagined by those, who are acquainted with the cause. I need not say, that the united force of these reflections, has affected my health, already affected by a severe wound, received in the service of my country. My countenance will sufficiently indicate the truth of this assertion, which needs no further proof than the knowledge of the charges against me.

I shall not take up the time of this honourable Court, in dwelling longer on the state of my mind and feelings: they are the natural companions of my situation, which can only be dispelled by the decision of the Court. I await it with confidence, trusting they will extenuate as much as possible, the errors I may have unintentionally committed. And when I adduce evidence of the highest respectability to prove the constant integrity of my character, they will feel astonished, that suspicion of such a base and scandalous nature should ever have rested on my honour.*

First Evidence.—Lieutenant General Sir LOWRY COLE being duly sworn—

Q. from Prisoner. During the time you have known me, did any circumstance come to your knowledge, that would induce you to suppose me capable of committing an ungentleman-like, or dishonourable action?—I cannot say there ever did.

* Many inaccuracies may be observed in the language of this Defence; but it was thought safer, to follow implicitly the office copy, than to presume at correction.

Q. Did you ever receive a letter from Colonel Warren, forwarded by Sir John Lambert, enclosing a certificate from Surgeon West, 27th foot, recommending it to be laid before the Medical Board, for the purpose of my getting leave to go to England?—There was a certificate, but whether for permission to go to England, or for a remuneration for your wound, I cannot at present say.

Second Evidence.—Major General Sir MANLY POWER, being duly sworn—

Q. *from* Prisoner. Did not the conduct of Colonel Warren, and the officers of the 1st battalion 27th foot, call forth strong animadversions from you, (with the excepion of Lieutenant Colonel Thomson) in consequence of a meeting, wherein they decided on Lieutenant Frazer's rejoining the regiment, and his being put to do duty with it?—I was very much surprised, to find Lieutenant Frazer was doing duty with the regiment; and I waited on Sir John Lambert, who commanded the brigade, to explain circumstances, that had occurred, respecting Lieutenant Frazer; and requested he might not be allowed to do duty, as I had received an official letter from the Horse Guards, "that he was to be placed on half pay, in consequence of a report I had made from the Island of Bermuda."

Q. Did you ever inform Colonel Warren that you had reported your arrangement, respecting Lieutenant Frazer's retirement, to the Horse Guards, and the Commander in Chief's answer to it, before the meeting took place?—Yes, I did.

Q. Did not Lieutenant Frazer, solicit at Bermuda, to be allowed to retire from the 27th regiment, from disgraceful causes, to avoid being brought to a General Court Martial, upon charges to have been produced against him by me?—I cannot say he solicited it; he offered to make an apology to Captain Tucker, which I did not think sufficient nothing short of his retirement from the 27th regiment, would be accepted of by me.

Q. From whom did you receive the first report of Lieutenant Frazer's misconduct?—From Sir Thomas Reed, commanding 27th regiment, to the best of my knowledge; it was also reported to me by Captain Tucker

Q. Did not Sir Thomas Reed, mention Lieutenant Frazer's being seen drunk, in the streets of Bermuda, in the day time?—Yes, he did

Q. Did not Lieutenant Frazer refuse to make me an apology, before he was put in arrest?—To the best of my recollection he did I cannot say, whether it was before or after being placed in arrest.

Q. Was not the leave, which you were pleased to grant, to Lieutenant Frazer to go to England, for the purpose of

retiring on half pay, inserted by your order, in General Orders, together with a letter of apology from him to me, for his conduct towards me, and were you not pleased to leave the dictation of the said letter to me? (In answer to which question, Sir Manly Power produces the General Order No. 22, of the 28th January, 1815, at Bermuda; which Order was read to the Court.)

Q. Did you ever see Lieutenant Frazer, in a state of intoxication, in the streets of Bermuda, in the day time?—I saw him looking very odd. It was afterwards asked me, if I did not observe that he was drunk.

Q. Was the decision of his Royal Highness the Duke of York ever cancelled, respecting Lieutenant Frazer?—No, not to my knowledge.

Q. Did not the then Commanding Officer, Sir Thomas Reed, tell you, that Lieutenant Frazer was a character, it was desirable to rid the regiment of?—In a conversation respecting Lieutenant Frazer, he Sir Thomas Reed said, he had better leave the regiment.

Q. from Prosecutor. How long after your arrival in Bermuda might it have been, before you placed Lieutenant Frazer in arrest?—The transport, in which Lieutenant Frazer was, did not arrive until about a week after I did. Immediately on its arrival, Lieutenant Frazer was placed in arrest, upon the report being made to me of his conduct by Sir Thomas Reed.

Q. Did you ever see certain letters, now before the Court, Nos. 12, 13 and 14, written by two Naval Officers and a Commissary, who were on board the Clarendon Transport, in January last; and which speak very favourably of Lieutenant Frazer's conduct on board?—I have seen these letters, but not at Bermuda.

Q. Was it not previous to yourself seeing Lieutenant Frazer intoxicated, that he refused making an apology to Captain Tucker?—I do not exactly recollect.

Q. Was not drunkenness in the streets one of the charges, Captain Tucker meant to prefer?—I believe it was.

Q. from Court. Who asked you, whether you did not observe Lieutenant Frazer was drunk?—I do not exactly recollect; but I believe, it was Sir Thomas Reed.

Q. from Prisoner. Did you ever inform Col. Warren, that, if it was the opinion of the officers of the 27th regiment, that Lieutenant Frazer should be admitted to do duty with the regiment, that you would not make any objection to it?—I told Colonel Warren, that I would not be a bar: on the contrary, that if the party concerned, who I conceived to be Captain Tucker, agreed to it, I myself would apply to have his resignation cancelled; but I did not conceive he could rejoin, until that was sanctioned from Head Quarters.

Q. Did you never tell Colonel Warren, that Lieutenant Frazer could not rejoin the regiment without Captain Tucker's consent?—I do not recollect, particularly, mentioning Captain Tucker's name; but, of course, considered his consent necessary.

Q. Have the goodness to state to the Court, your opinion of me as an officer, and a gentleman?—During the period Captain Tucker was under my command, at Bermuda, I had every reason to consider his conduct, as both that of an officer and a gentleman.

Third Evidence. — Major BALNEAVIN, 27th Regiment, being duly sworn—

Q. from Prisoner. Did you go to Colonel Warren from Sir Manly Power, on or about the 12th September, with a message; if so, state it to the Court?—I went with the message; the purport of which was, to ask, if Lieutenant Frazer was doing duty with the corps or not.

Fourth Evidence. — Lieutenant Colonel THOMSON, 27th Regiment, being duly sworn—

Q. from Prisoner. Were you present at a meeting of the officers, 1st battalion, 27th foot, as ordered by Colonel Warren, at his quarters on the 8th September?—I was present, but cannot say the precise day.

Q. State what passed.—The object of the meeting was, to take the opinion of the officers, whether or not they had any objection to Lieutenant Frazer rejoining the battalion.

Q. Was not Lieutenant Frazer appointed in regimental orders, to do duty with a company of the battalion the same day, or the following one?—He was.

Q. For what reason did you object to Lieutenant Frazer rejoining the 27th regiment?—I had heard reports of the conduct of Lieutenant Frazer, whilst on board ship, and under the immediate command of Captain Tucker, that made me think very unfavourably of him; and the circumstance of his giving in his resignation, to avoid being brought to trial, on charges preferred against him for that conduct, satisfied me, that it must have been such, as that he himself was convinced, if brought before the Court Martial, he must inevitably be broken: added to this, Lieutenant Frazer's character in the regiment, for habitual intoxication, has been such, as to make me consider him an improper person to hold the situation of an officer in the service.

Q. From the many years that you have known me, had you ever any reason to suppose from my character, as a gentleman and officer, that I could be capable of committing a disgraceful or an ungentlemanlike action?—I have known

Captain Tucker for several years, and do not know any thing on the part of Captain Tucker, that could induce me to suppose, he would act, unbecoming the character of a gentleman.

Fifth Evidence.—Colonel WALKER, 58th Regiment, being duly sworn—

Q. Please state the time you have known me, and your knowledge of me during that period, as an officer and a gentleman?—I have served perpetually in the same army since the expedition to Egypt in 1801; and I know Captain Tucker, not as a casual acquaintance, but most intimately; and have always considered him, from what I myself know, and have heard, as an officer of most unimpeachable character.

Sixth Evidence.—Lieutenant Colonel MILLING, 81st Regiment, being duly sworn—

Q. Please to state the time you have known me, and your knowledge of me, during that period?—I have known Captain Tucker about ten years in the Mediterranean. When there, I always considered him as gentlemanlike, and particularly correct in his conduct. Service has since sent us to different parts of the globe; but I have never heard any thing to his disadvantage: and was gratified in renewing my acquaintance with him, whenever we met.

Seventh Evidence.—Lieutenant JOSEPH SMITH, 27th Regiment, being duly sworn—

Q. From Prisoner. Did Colonel Warren say, at the meeting of the officers, at his quarters, on the 18th September, that he thought it was better I should not be present at it?—He did.

Q. Do you recollect telling me, about two days after I had addressed a letter to Major General Sir Manly Power concerning Lieutenant Frazer, that from observations you heard respecting it, among the officers, you thought, that most of them would not speak to me in consequence of that letter?—I did.

Q Did any officer assign any particular reason, for not speaking to me?—The reason assigned by two officers, was your letter to Sir Manly Power.

Q. Did there appear to exist an agreement or understanding among the officers not to speak to me?—I suppose there was an understanding among the officers not to speak to you, in consequence of that letter to Sir Manly Power.

Q. Was I not on intimate terms with the officers up to the period of my sending the letter to Sir Manly Power?—You were on the most intimate terms with the officers in general.

Q. Did you after the meeting of the officers, and after

my letter to Sir Manly Power, hear any Captain of the battalion say any thing, as to their preventing my getting leave of absence?—I heard one Captain say, "Captain Tucker will not get leave now, after the letter he has sent to Sir Manly Power."

Q. Did you ever hear of Colonel Warren's sending to the Captains for a letter respecting me?—I was in Brevet Major Waldron's hut late in the evening, when I heard him say, that Colonel Warren had sent down for a letter, desiring it might be sent to his quarters immediately; which letter related to Captain Tucker's taking his duty.

Q. Do you recollect my stopping at Surgeon West's in my carriage, on or about the 30th August, when he came to the door of it?—Yes, I do.

Q. What did I ask him for?—A certificate to enable you to obtain leave

Q Did he grant it, or not?—He did.

Q Are there not two officers at present in the battalion, in possession of horses obtained at Waterloo; and did not one of them tell you, that they told Colonel Warren of it, after the bay mare was taken from me?—There is one.

Q State what passed between you and the Surgeon respecting my certificate?—He enquired particularly about Captain Tucker's wound, and shewed me the certificate several times asking me, if that would do to obtain the object of the certificate. I have heard Mr. West say, it was for getting leave.

Q. Did I not request you by letter, prior to my arrival at Paris, to get me a quarter at or near Neuilly; and did not the Quarter Master also, by Colonel Warren's order, strive to obtain one for me at the same time?—You did

Q. Was not that desire of Colonel Warren's, in consequence of a request of mine? I suppose it was.

Q from Prosecutor. Do you know that those horses, which have been alluded to, were wounded horses, that would have been shot? I have been told so

Q. Did you ever see the two horses; if so, describe them, and if fit for service, or not? I saw one of them, after Captain Tucker had written the letter to Sir M. Power; it appeared quite sound.

Q. Is the horse, to which you allude, one belonging to the Quarter Master?—It is.

Eighth Evidence.—Dr. M'DOUGAL, Inspector of Hospitals, being duly sworn—

Q from Prisoner. Do you recollect my appearing before the Medical Board at St Denis—And what did I state to be the purport of my appearing?—I do recollect; the purport was, to get leave to go to England.

Q. Did you not observe, that in consequence of Mr. West's statement, you were afraid the Board would not recommend me for leave to go to England?—I may have made some such observation: and informed Captain Tucker, that Mr. West had told me, the certificate was not given for the purpose of obtaining leave to go to England; but to obtain the remuneration of a year's pay on account of his wounds.

Q. Did the Board recommend me for three weeks leave to go to St. Denis, in consequence of their conceiving me unfit for duty?—They did.

Ninth Evidence.—Adjutant BURNS, 27th Regiment, being duly sworn—

Q. from Prisoner. Was this letter, (No 20) written according to Colonel Warren's directions? It was.

Q. Did not Colonel Warren, subsequent to this letter, allow of exceptions on the part of two officers of the battalion, who had reported to you, their having got horses at the battle of Waterloo?—When Colonel Warren knew of their being in possession of those horses, he ordered them to be given up.

Q. Has any order of His Grace the Duke of Wellington relative to horses taken in action, been entered into the Regimental Orderly Books, or in any other way been officially promulgated to the officers of the regiment?—It was promulgated to the officers

Q. Was it not promulgated, when the grey mare was taken from me?—It was before that.

Q. from Prosecutor. Did you not understand from me, that the Regimental Order alluded to, was in consequence of information, that there were more horses in the regiment than those of Captain Tucker, taken in the battle of Waterloo?—I did

Tenth Evidence.—Lieutenant BETTY, 27th Regiment, being duly sworn—

Q. Has any order of His Grace the Duke of Wellington, relative to horses taken in action, been entered into the Regimental Orderly Books? There never was.

Lieutenant JOSEPH SMITH, being again called in—

Q. from Prisoner. Did you not hear Lieutenant Miller say to Lieutenant Colonel Neynoe, when the remaining effects of Captain Holmes were selling off, that he knew the jacket and sash were the only valuable articles among his baggage; and that he would not have given five Napoleons for the remainder?—I did hear him say so.

Q. Did you ever hear Lieutenant Miller say so a second time; and if so, mention when?—I did, in my own room, since the assembly of the Court Martial.

Eleventh Evidence.—Ensign DITNASS, 27th Regiment, being duly sworn—

Q. Did you not hear Lieutenant Miller say to Lieutenant Colonel Neynoe, when the remaining effects of Captain Holmes were selling off, that he knew the jacket and sash were the only valuable effects in his baggage, and that he would not have given five Napoleons for the remainder?—I do not recollect.

Twelfth Evidence.—Private JOHN ELLIOTT, 27th Regiment, being duly sworn—

Q. What became of the tent belonging to Captain Holmes?—It was left in Brussels with Lieutenant Miller.

Q. Who retained possession of the horse Captain Holmes used to ride, together with the saddle, bridle, and valise?—Lieutenant Miller; there was only a bridle with the horse.

Thirteenth Evidence.—Private PATRICK M'GEE, 27th Regiment, being duly sworn—

Q. Describe the state of Captain Holmes's baggage horse, when you saw him at Brussels?—I saw him in an hour after he came in there was a hole in his shoulder, I could put my two fingers in.

Q. Was the horse fit for carrying baggage? —No, it was not.

Q. from Prosecutor. Was not that mare employed in carrying forage for Captain Tucker's other horses?—She was once, about seven days after the piece had been cut out, and it was healing.

Fourteenth Evidence.—Ensign JOHN SMITH, 27th Regiment, being duly sworn—

Q. from Prisoner. State to the Court what you know respecting Captain Holmes's baggage? —On the baggage being brought to Brussels. Captain Holmes's bât-man asked Captain Tucker, what should be done with his master's baggage, as the horse was sinking under his load. Captain Tucker ordered it to his own quarters. Some days after, Captain Tucker employed a man to open Captain Holmes's baggage. Evidence took an inventory of the effects, of which he believes the inventory produced by Captain Tucker to be a true copy. A few days after the baggage was opened, an inhabitant of Brussels came to Captain Tucker, and told him, he was in the habit of purchasing the effects of deceased officers Part of the effects of the late Captain Holmes were sold to this man—an inventory being at the same time taken of what they sold for. The remainder of the things were sent up some time after to the regiment, under the care of

Lieutenant Miller. The only things I saw, of any value, were the jacket and sash.

Q. Could any thing have been taken out of the baggage, while in my possession, without your knowledge?—Nothing.

Q. Were there any valuable effects or money in the portmanteau or canteen.—None.

Q. Were there any Ledgers taken out of the mattrass, or any other part of the baggage?—There was one Ledger.

Q. Were there any papers or books that gave an insight into his public accounts, except the Ledger and some abstracts?—Nothing, except a letter from Major Kersteman respecting Captain Holmes's staff pay.

Q. At the time the baggage of Captain Holmes was opened, did you with me minutely inspect all the papers contained therein?—I did.

Q. Was there a pocket-book in the portmanteau, or other baggage of Captain Holmes?—There was a small red leather book, which contained remarks on the Light Infantry manœuvres in manuscript.

Q. Do you not recollect my requesting Lieutenant Miller to be present at the opening of Captain Holmes's baggage; and if so, what was his answer?—I do; he said, there would be no use in his being present, as he knew the whole of Captain Holmes's baggage, and would not give five Napoleons for it, adding, there is Tom there, (meaning the Evidence) he will be sufficient.

Q. Do you not recollect my shewing Lieutenant Miller the inventory of Captain Holmes's effects; and did he make any remarks on the occasion?—I do; he said, "I wonder you got so much—I know poor Holmes had a very bad kitt."

Q. Do you not recollect Lieutenant Miller telling me, that what money Captain Holmes had, he knew he always carried about his person?—I do recollect, after the baggage was open.

Q. What is the character of John Elliott?—Lieutenant Miller has said, he was a bad character.

Q. from Prosecutor. Are not you and Lieutenant Joseph Smith brothers-in-law to Captain Tucker?—We are.

Q. Was there any tea found in the valise?—None.

Q. Can you state what the canteen contained?—There were several old tin canisters, a wine bottle, a silver fork and spoon, two silver tea-spoons, and two plated tea-spoons.

Q. Were you present when the articles were sold?—I was.

Q. In what state was the portmanteau when opened; was it full?—It was full, but not closely pressed.

Q. from Court. Who was present when the baggage was opened, and the whole of the baggage taken out?—Captain Tucker, Mrs. Tucker, and myself.

Q. Was there any quantity of paper destroyed?—There was nothing, except what packed the canteen, out of an old French account book, and the small manuscript I have before mentioned.

Q. from Prisoner Did Lieutenant Cradock express any thing at Captain Tucker's quarters respecting Captain Holmes's baggage; if so, state it?—He said, he thought it would be madness to send the baggage to the regiment, in the state the horse was in; and that Captain Tucker was right in detaining it.

(The Court adjourned to the 9th instant.)

Versailles, Nov. 9th, 1815.

The Court having met pursuant to adjournment,

Major General Sir FREDERICK ADAM being duly sworn—

Q. from Prisoner. Have you not known me for several years, and did not I serve with the second battalion, 27th regiment, in the advance corps under your command, on the Eastern coast of Spain? From the knowledge you acquired of me please to state to the Court your opinion.—I have known Captain Tucker for several years; he served under my command on the Eastern coast of Spain. I had a very good opinion of Captain Tucker as an officer, and the same as an individual, as far as my knowledge went. I do not remember ever to have heard any thing to Captain Tucker's disadvantage.

[*Here closed the Defence.*]

REJOINDER OF THE PROSECUTOR.

It is with much satisfaction I perceive, that I shall not have occasion, to detain the attention of the Court, beyond a few moments The necessity of the measures I adopted, in bringing the Prisoner before this tribunal. and the motives that solely influenced my conduct, have been rendered apparent in the course of the trial It has been seen, that I was inclined to shew him every indulgence; and that I was only too late in believing him capable of the offences, which have been submitted to the judgment of this Court.

I have little to add to the statement, with which I opened the proceedings; a statement which, far from exaggerating,

fell far short of the detection of facts, which have been given in evidence.

To enter upon a lengthened refutation of the defence attempted by the Prisoner, to shew the fallacy of his allegations and arguments, were to waste the time of the Court, and trifle with its patience and understanding, in idly combating shadows. The deep impression of facts is not to be effaced, by gratuitous assertion.

In what way has the Prisoner attempted to meet the first charge? a charge, which was proved, by the mere production of that letter, so replete with libellous denunciations. Every effort he has made to repel that charge, has evinced an unmitigated spirit of accusation; a determined persistence in aspersion, and a wanton indifference for the feelings, or character, of the objects of his indiscriminate slander, which can have excited only, indignation, or contempt. He has sought shelter from the consequences of his former libel, by volunteering new ones. He shewed himself prepared, to impeach the character of men, of unquestionable honour, whose absence, and ignorance of the proceedings of this Court, seemed to insure impunity from the danger of refutation; if his propensity for defamation had not met, from the Court, the early check, it deserved.* What has it availed him, to attempt to prove, that Lieutenant Frazer was unfit to be received in the 27th regiment? What has it availed him, to strive to undermine and destroy his character, without affording him the opportunity of defence; when he had refused to encounter him by an open accusation? How would it avail him, to prove, as he has attempted, that other officers held the same opinion of Lieutenant Frazer; when it, at the same same time, appears, that that opinion depended upon the truth of the Prisoner's representations? I still insist, that, had he demonstrated all he has attempted; had he made it evident to the Court, that Lieutenant Frazer is as unworthy, as his imagination, so fertile in aspersion, would depict him; I still insist, that by such proof he would only have aggravated his own offence, in having so obstinately withheld all demonstration of such criminality, when called upon, so repeatedly, to disclose it to the regiment. But failing, as he has done, in this ungracious attempt, the accusation recoils on his own head with redoubled force; and, if he might be abashed, would overwhelm him with confusion.

As to that part of the libel, which is directed against myself individually, as it was proved to be false and malignant, by evidence and documents it was impossible to invalidate; I shall pass unnoticed his puny efforts at defence. I leave him to enjoy, as he terms it, "the agitation of his distressed feelings."

* This alludes to something, that happened on the Defence, but does not appear in these Minutes.

I might have left, also, the second and third charges, as they stand upon the records of the Court, proved, as they are, even in the minutest particular, beyond the possibility of cavilling; if my attention had not been unluckily arrested by the prisoner, to notice the rough trot of the grey mare. He cross-examines the evidence, to prove to the Court, that the grey mare trotted high and rough, and the consequent necessity, as he was severely wounded just below the knee, of finding an animal of easier paces. It is certainly to be regretted, that, for his own ease and comfort, he had not first tried the canter of the grey mare, which has been since found, to be remarkably gentle and lady-like.

One word more I have to say, on the subject of these charges. It was thought necessary, in support of them, to examine M'Gee, a soldier, who had been, according to the statement of the Prisoner, his confidential servant: though he had lived with him only from about three days before the battle of Waterloo, till the time of the Prisoner's being put in arrest; and who, on the very day after being ordered to his Company, being too dirty to appear at the inspection of the General, was placed as one of the camp guards, where he got drunk, and has been since twice in confinement, and often reported absent all night. The Court must have observed, that this M'Gee was an unwilling witness; he was implicated in the transaction. But it is found necessary, even in cases of the deepest atrocity, to have recourse, sometimes, to the testimony of accomplices. In this instance, though the truth was forced from him, it was easy to see his leaning towards the Prisoner. And what did he prove by his cross-examination? Why, that he had been strictly examined in my room, and ordered to tell the truth, and warned of the consequences of prevarication. It was the evident object of the Prisoner to insinuate, that it was either criminal, or highly improper, in me to examine witnesses previous to trial; as if it would not have been much more improper, and perhaps even criminal, in me to have preferred such charges, without first ascertaining, by what evidence they were to be supported. Is he so little acquainted with the laws of England, as not to know, that no man is called upon to plead to an indictment, till a grand jury have found, by a previous examination of witnesses, that there is sufficient evidence, to bring him to trial? But the Prisoner, in the blind fury of defamation, would impugn the most just and merciful provision of the law, and attack the strongest bulwark of personal liberty.

Passing from these, to the more serious and disgraceful offences, alledged against the Prisoner in the fourth and fifth charges; can there remain a doubt of his guilt? The burning and mutilation of the papers, by the order, or with the connivance of the Prisoner, is demonstrated by the positive

evidence of the person, who destroyed them, and by the appearance of those that remain. The nature, the quantity, and the importance of those papers have been also proved. The repeated denial by the Prisoner, of the existence of any such papers, is a strong circumstance of suspicion against him, as connected with the evidence on the fourth charge, which shews the motive for the destruction of those papers

The breaking open of the trunks of Captain Holmes is admitted; and that no account of the sale of the effects has been given, except, requesting the Paymaster to credit the account of the deceased with 121½ francs.

It is not pretended, that any inventory has been given of the effects of the deceased to the senior Major of the regiment, from the date of the action of Waterloo, up to this day. And what is the excuse of the Prisoner? "He is not aware, that any regimental order was issued on the subject." Now, if this were the fact, is it not a strange plea to be set up by a man, who boasts, in his letter to the General, "that for eighteen years he had ever upheld the character of an officer and a gentleman;" and yet neglects a part of his duty, which every Ensign is presumed to be acquainted with: and this, too, after having been applied to on the subject, in a way, that appeared to have irritated his feelings? But look at his letter to Colonel Hare, on this very point; he there states, that the medical officers at Brussels had ordered him to England, on account of his wounds; but that the manner, in which Colonel Hare had taken up the subject of Captain Holmes's baggage, had determined him to come, on that account, to Paris, there to answer all further enquiries personally. What does this bluster end in? When charged with rendering no satisfactory account of this baggage; after remaining, more than six weeks, in the neighbourhood of the regiment; and having necessarily daily communication with it; and knowing, therefore, that enquiries were proceeding on the subject, he attempts to shelter himself, by saying, he had seen no regimental Order. What is his next resource? the attempt to depreciate the baggage, by proving, that officers, who had an opportunity of knowing, or guessing, its worth, had thought it of little value. In this attempt he has completely failed. The officers have directly negatived his questions; and the servant of the deceased has given in an inventory to the Court of articles, which must have been much undersold by the Prisoner, if they brought in only 121½ francs.

But, if these articles were of so little value; if there were no papers, but such as are produced to the Court, which are evidently of no importance; whence arose the extreme, the remarkable anxiety of the deceased? Why did he order his canteen, which is proved to have been of some value, his

bed, his tent, and even his books, to be thrown away, to preserve his trunk? a short investigation of the state of his Company's account, will elucidate this apparent mystery.

It appears, by the report of the Board of Enquiry, submitted to the Court, that Captain Holmes was indebted, at the time of his death, on account of his Company, £126 7*s* 3*d*. From his well known character for precision and correctness, it was to be presumed, he had this money in his possession. How stands the evidence as to this point? it is proved by the Paymaster, that between the 12th and 17th May he paid the deceased, on account of his Company, £335; and that he was, at the same time, informed by him, that he had, in his possession, a number of doubloons and dollars, belonging to his Company. Mr. Martyn, the Assistant Surgeon, proves, that he saw a number of doubloons, amounting to ten or twelve, in the possession of Captain Holmes. Taking them only at ten, and at the same price, at which he issued them, that is, £3 14*s* 8*d*. each, they amount to £37 6*s*. 8*d*., making together, with what he received from the Paymaster, a sum of £372 6*s* 8*d* independent of the dollars, which, it is stated, and as appears by the Pay Serjeant's book, were in possession of Captain Holmes.

Now, it appears by the Pay Serjeant's book, that, from the arrival of the regiment in England, up to the 13th June, independent of the dollars and ducats received from Colonel Hare, which are not taken into the account, he received, in the whole, only £306 11*s*. 6*d*; which alone would leave a balance in the hands of Captain Holmes, of £65 15*s*. 2*d*.

This sum, at all events, there is every reason to suppose, was safely deposited in the trunk; since there is no other way of accounting for it. No part of it can be presumed, to have composed the sum, found on the person of the deceased; since the ducats, which were in one purse, are not, as I have stated, taken into this account; and the money, which was found in the other purse, may well be supposed to be the remains of the £20, which the Paymaster has proved to have paid him, on his private account, at Portsmouth, and of the £42 10*s*., which he had received not a fortnight before, on account of batt and forage.*

* Thus far the Reply was in writing. The Prosecutor, not having had time to commit the remainder of his ideas to paper, after reading the above, addressed the Court verbally, on other heads that called for observations; which not being minuted down by the Deputy Judge Advocate, accounts for the abrupt conclusion of the Reply, as it appears in these Minutes.

OPINION AND SENTENCE.

The Court having duly, and maturely, weighed and considered the evidence, brought in support of the prosecution, together with what has been alledged by the prisoner in his defence, are of opinion, that with respect to the 1st Charge: viz.

"Highly insubordinate and disrespectful conduct, in writing a certain letter, purporting to bear date on the 19th September, 1815, and addressed to Lieutenant General Sir Lowry Cole; wherein certain motives and conduct are imputed to the officers of the 1st battalion, 27th regiment, deeply implicating their character, as a corps. and wherein the conduct of Colonel Warren, commanding the 1st battalion, 27th regiment, is complained of, and in many instances is falsely represented, thereby attempting to asperse the character of the Commanding Officer, and the Officers of the Battalion."

On which the Court are of opinion, that the Prisoner is Not Guilty; and do therefore acquit him

The Court do find the Prisoner Guilty of the whole of the 2nd Charge viz.

"For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in forcibly taking and converting to his own use, on or about the 18th June last, and afterwards keeping in his possession, at Brussels, contrary to the Orders of Field Marshal His Grace the Duke of Wellington, a certain Bay Mare, belonging to some British regiment of dragoons, or regiment, or officer, or soldier in British pay; and in effacing, or attempting to efface, or causing, or conniving at the attempt, to efface the regimental mark on the left flank, or side of the said mare; and in advertising the said mare for sale, in a public paper, published at Paris, intitled 'Galignani's Messenger;' and in detaining the said mare in his possession, until ordered by his Commanding Officer to give her up, on the 17th September, 1815."

Upon the 3d Charge: viz.

"For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in forcibly taking and converting to his own use, on or about the 18th June last, at or near Waterloo, and afterwards keeping in his possession at Brussels, contrary to the General Orders of Field Marshal His Grace the Duke of Wellington, a certain Grey Mare, supposed to belong to some British officer, or soldier, or officer, or soldier of the allied troops; and in effacing, or attempting to efface, or causing, or permitting to be effaced, a certain mark on the left flank or side, with the intention to prevent the said mare from being recog-

nized and identified; and in selling the said mare to Lieut. Duhigg of the 27th regiment, for a certain sum of money, amounting in value to 200 francs French currency."

On which Charge the Court do find the Prisoner NOT GUILTY, and do therefore acquit him.

The Court do also ACQUIT the Prisoner of THE FIRST PART OF THE 4TH CHARGE: viz.

"For scandalous and infamous conduct, unbecoming the character of an officer, and a gentleman, in secretly breaking open, or permitting to be broken open, on or about the 24th day of June last, or some day previous to the 10th July, without proper witnesses, at his lodgings at Brussels, the portmanteau, trunk, canteen, and other baggage of the late Captain George Holmes, of the 27th regiment, killed in the action of the 18th June, at Waterloo, and taking thereout and disposing of, or appropriating their contents, consisting of wearing apparel, money, and other valuable effects."

But the Court do find the Prisoner GUILTY OF GREAT IMPROPRIETY, IN NOT GIVING A SATISFACTORY ACCOUNT THEREOF.

On the fifth Charge, viz. "Scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in burning, destroying, or mutilating, or causing or permitting to be burnt, destroyed, or mutilated, on or about the 24th day of June last, or on some day previous to the 10th July, at his lodgings in Brussels, various letters and papers, contained in the baggage of the said Captain George Holmes; thereby destroying the materials, which were and are indispensably necessary to enable the Board of Enquiry, appointed, to assist the Major of the regiment, to ascertain and determine, the state of the regimental and private accounts, of the said Captain Holmes."

On which Charge the Court do find the Prisoner NOT GUILTY, and do therefore acquit him.

The Court having found the Prisoner GUILTY *of the whole of the second Charge, as well as of the latter part of the fourth Charge;* which being in breach of the Articles of War:

They do therefore sentence him, CAPTAIN JOHN TUCKER, 1st battalion, 27th regiment, TO BE DISMISSED HIS MAJESTY'S SERVICE.

(Signed) H. CLINTON,
Lieutenant General and President.

(Signed) S. REED,
Captain 71st, and Major, A. D. J. A. 2nd Division.

(A true Copy)

J. A. OLDHAM.

Judge Advocate General's Office,
5th August, 1816.

APPENDIX.

(No. 1.)

La Chapelle, 19th Sept. 1815.

SIR,

It is with the most acute anguish of sorrow, that I am driven to the absolute necessity, of submitting to you the treatment, that I experience, in consequence of a letter, which I addressed to Major General Sir Manly Power; a copy of which I beg leave to submit, for your perusal, as an elucidation; and who having taken the proper steps accordingly, the officers of the 1st battalion have thought proper to put me in a state of Coventry, in consequence thereof, (excepting a few) and whenever I meet them, I am avoided.

During a service of eighteen years, near sixteen of which have been passed in the 27th regiment, I have ever upheld the character, of an officer, and a gentleman. I am now treated as a person devoid of principles, of either the one, or the other. And for what? For performing my duty to his Majesty's service, in preventing an officer from rejoining the regiment, in consequence of his disgraceful conduct; a conduct, which completely involved his character, as an officer, and a gentleman: notwithstanding this, he was received in the 1st battalion, and I am treated by its officers in a manner, due only to those, who have committed themselves, as Lieutenant Frazer did. I therefore, Sir, beg leave to submit it to your consideration, whether I merit the treatment I receive, and whether the officers of the 1st battalion, 27th regiment, are justified in this conduct. Every thing, that is dear to me, is involved in this—my fame—my character—all must suffer in the eye of the army; and, hereafter, in private society. I fly to you, Sir, for protection and justice.

I beg leave, Sir, further to complain to you, that Colonel Warren sent his Adjutant four days past, desiring me, to give up to him a horse, which I had got at Waterloo; and desired to know, whether I had burned a mark out of it. This order, Sir, I immediately obeyed, on the principle of obedience to a command from a superior Officer, by delivering up the horse, which was taken to Colonel Warren's Head Quarters. The following day, the Adjutant again came to me, with an order from Colonel Warren, for me to put down in writing, if I had burnt the mark out; for if I had,

he would bring me before a General Court Martial. In answer to this, I addressed a letter to him, stating, that being severely wounded in the battle of Waterloo, a man caught me a horse, which had been running about the field, and evidently with its rider killed; and which horse I was put on, and conveyed to Brussels. That I understood, a foreign mark had been on the horse: and which was taken out by a private servant, which I had, while I was laying extremely ill in my bed unable to move. The saddle, &c. on the horse were foreign, and covered with a sheep skin, all very old. That he might recollect my having told him, at his own house, three weeks past, the circumstances of my getting the horse.

The Adjutant, at the same time, said, it was Col. Warren's orders, that I should immediately find a quarter near the camp; that if I could not procure one, I must come into the camp, and live there; and further, that I must send back to him the order I got, from His Grace the Duke of Wellington, to appear before a Medical Board. Thus, Sir, by being ordered into camp, am I precluded from the indulgence granted to wounded officers, who are not reported fit for all duties.

Yesterday, when I appeared before the Medical Board, what was my astonishment, when the President produced a letter from the Surgeon of the Battalion, Mr West, stating, that the Staff-Surgeon had returned me fit for duty, except for field days This was so evidently done, to prevent my getting leave, that it must have been seen by the Board. The President further stated, that Mr. West had said, that he did not give me the certificate for leave. To this, Sir, I beg leave most solemnly to declare, that he did give me the certificate for leave. The agitation of mind, that I have laboured under, Sir, in consequence of all those circumstances, has brought on an illness, for which I was obliged to make application about to Dr. Woolriche, of St. Denis Hospital; who kindly ordered a Staff-Surgeou to attend me, and to give a certificate of my illness, which I forwarded to the Surgeon of the regiment.

I hope, Sir, that you will pardon this intrusion, which nothing, but the most distressed feelings, could have compelled me to, and the cruel manner, in which I have been treated: which, Sir, if you think necessary, may be laid before His Grace the Duke of Wellington.

I have the honour to subscribe myself, with the utmost respect, Sir,

Your most obedient and
very humble servant,
JOHN TUCKER.
Captain 27th Foot

Lieut.-Gen.
Sir Lowry Cole,
Commanding 6th Div.

(No. 2.)

COPY.

La Chapelle, Sept. 11, 1815.

SIR,

I beg leave, to have the honour of engaging your attention a few moments.

You may recollect the circumstances, under which Lieut. Frazer, of the 27th regiment, addressed a letter to you, at Bermuda, when under close arrest, praying that he might not be brought to a General Court Martial, from charges to be produced against him, by me; and that you would permit him to retire from the regiment, to go on half-pay; this, sir, you may recollect you were pleased to grant, allowing him leave of absence, to go to England for the purpose. Much to my astonishment, on my arrival here, I found, that Lieut. Frazer was here, with the intention of rejoining the regiment. I was informed, by Col. Warren, that you had informed him, Lieut. Frazer could not join the regiment without my consent. An official answer from me, on the subject, was required by Col. Warren. This I gave; and was in substance, " that as Lieut. Frazer had given a solemn promise to quit the regiment, in order to avoid meeting charges against him of a most serious nature, and that he had obtained leave of absence for that purpose, from Major Gen. Sir M. Power, that it was therefore impossible Lieut. Frazer could ever join the 27th regiment." Notwithstanding this decision of mine, a meeting of the officers of the battalion was called for. I requested Col. Warren to be excused from a meeting, wherein I conceived, the officers had no right to arrogate a power, they did not possess; namely, whether Lieutenant Frazer was to rejoin the 27th regiment: for, as his retiring had been communicated to the Horse Guards, it was only in the power of H. R. H. the Commander of the Forces, to order his rejoining the regiment. It appears, however, that there was a meeting three days ago; and the officers decided, to receive Lieut. Frazer in the regiment. One, indeed, Lieut. Col. Thompson, an officer of great experience, I am happy to say, protested against this proceeding, urging its impropriety. At this meeting, there was not a field officer, or a captain, who was at Bermuda, or who could be acquainted with the circumstances.

I beg leave, Sir, most respectfully and most seriously to beg, that you will cause to be enforced your orders in Lieut. Frazer's quitting the regiment, according to his solemn pro-

mise, in order to avoid the serious charges, which were to have been brought against him. A copy of which charges I beg leave to annex, and which you might remember.

I have the honour to be, with the greatest respect,

Sir,

Your most obedient and very humble servant,

JOHN TUCKER, Capt. 27th Foot.

Major-Gen. Sir Manly Power,
&c. &c. &c.

COPY of CHARGES, which were to have been produced against Lieut. Frazer, 27th Regiment.

1st. For behaviour unbecoming an officer and a gentleman, in being repeatedly intoxicated, and for rioting on the quarter-deck of the Clarendon Transport, on the days of ; such conduct being a dangerous example to the troops on board.

2d. For disobedience of orders, on the night of the , in not coming from the quarter-deck while rioting there, and when ordered to do so by his superior officer, Captain Tucker.

3d. For conduct highly unbecoming an officer and a gentleman, in holding and joining in a mock Court Martial, on the quarter-deck, on the day of , thereby endeavouring to turn Capt. Tucker, the Commanding Officer on board, into ridicule; such conduct being highly insubordinate, and a dangerous example to the troops embarked on board.

4th. For conduct highly disgraceful in an officer and a gentleman, in being repeatedly drunk in the streets of Bermuda, particularly on the days of , in the day time.

(There was another charge, which, from the time that has clapsed, I cannot exactly remember.)

(No. 3.)

Neuilly Camp, Sept. 14, 1815.

SIR,

Understanding that Capt. Tucker is applying for leave of absence, to go to England, I beg leave to state to you, on the part of the Captains present with the battalion, that as Capt. T.'s wound does not prevent his walking about the streets of Paris, having been seen by several of the

Officers, they should suppose him capable of doing his duty; and it would be felt as a hardship by us, that he should obtain leave, on private business merely, there being only five Captains present; several of whom, on that ground, would have prior claims to Capt. Tucker, who, since he has had a company in the regiment, has been the greatest part of his time absent.

I have the honour, &c.

J. S. THOMAS,
Bt. Major and Senior Capt. present.

Col. Warren,
&c. &c.

(No. 4.)

Neuilly, Augt. 31, 1815.

I do hereby certify, that Capt. John Tucker, 1st Battalion 27th Regiment, received a wound in the left leg, from a musket ball, at the battle of Waterloo—that it struck the upper part of the large bone of the leg, in consequence of which, several pieces of bone have come away—that, although the wound is now skinned over, yet, from the circumstance of the bone having been injured, I conceive it very liable to break out again, and therefore do not think him capable, at present, of performing his duty.

FRAS. DOWNING,
Staff-Surgeon, 6th Division.

(No. 5.)

Villiers, Sept. 15, 1815.

SIR,

It having been stated to me, by Major Thomas, on the part of the Captains of the battalion, that Captain Tucker, who received from you a certificate of incapacity for duty, in consequence of his wound, had been frequently seen walking about the streets of Paris; and the Captains conceiving, from that circumstance, that his tour of regimental duty cannot be injurious to him, I am to request you will inform me whether, under such circumstances, it would be prudent to place Capt. Tucker on the regimental Roster or no.

I am, &c. &c.

L. WARREN, Colonel, &c.

To F. Downing, Esq. &c.
Neuilly.

(No. 6.)

Neuilly, September 15th, 1815.

SIR,

I have the honour to acknowledge the receipt of your letter of yesterday's date, and to say in reply, that since giving the certificate to Captain Tucker, I have never seen that gentleman, therefore cannot decide the question, you have put to me, on that subject. It appears, however, to me, that, in giving certificates, I am responsible only to the General commanding, and that this is a business purely regimental.

I have the honour to be, Sir,
Your most obedient humble Servant,
FRANCIS DOWNING,
Staff Surgeon, 6th Division.

To Colonel Warren,
Commanding 1st batt. 27th regiment.
Neuilly Camp.

(No. 7.)

Neuilly, Sept. 17th, 1815.

SIR,

Staff Surgeon Downing has desired me to acquaint you, that Captain Tucker waited on him this morning for a renewal of his certificate, which he has not deemed necessary to grant; but states, that it might be advisable to excuse him from field days.

I have the honour to be, Sir,
Your obedient humble Servant,
HENRY WEST, Surgeon, 27th regiment.

To Colonel Warren,
Commanding 27th regiment.

(No. 8.)

Neuilly, 20th September, 1815.

SIR,

Agreeable to your order, the medical Officers of the regiment have examined Captain Tucker, and are of opinion that he is fit for all duties (field days and picquets

excepted); they however recommend, that he may be granted a billet at Neuilly.

I have the honour to be, Sir,
Your most obedient Servant,
HENRY WEST, Surgeon, 1st batt. 27th reg.

To Colonel Warren,
Commanding 27th regiment.

(No. 9.)

COPY.

La Chapelle, 19*th September*, 1815.

SIR,

I am ill—incapable of any duty—was obliged to apply to a medical gentleman near me. Inclosed I send you his certificate, which I request may be communicated to the Staff Surgeon of the Division.

I am, Sir,
Your most obedient Servant,
J. TUCKER, Captain, 27th regiment.

Mr. West, Surgeon,
1st battalion, 27th regiment.

P. S. If this should not be satisfactory, I beg you will come to me yourself, or send an assistant.

(No. 10.)

This certifies, that I have examined Captain Tucker, of the 27th regiment, and find, that he labours under a febrile attack, likely to terminate in intermittent, for which I have prescribed.

T. DEARE, S. A. S. Lt. 19th September, 1815.

(No. 11.)

I certify that Captain John Tucker, of the 1st battalion, 27th regiment, was severely wounded by a musket ball in action with the enemy at Waterloo, on the 18th of June last. The ball struck the tibia of the left leg, two inches

under the knee, and passed out about three inches obliquely towards the ham. Pieces of bone came away at different periods. He also received a contusion in the left groin by a musket ball.

HENRY WEST, Surgeon,
1st battalion, 27th foot.

Paris, August 30th, 1815.

(No. 12.)

Bermuda, 3rd February, 1815.

SIR,

In reply to your letter of the 3rd instant, asking my opinion of your conduct, while on board the Clarendon transport, on the passage from Halifax to Bermuda, that is, from the 17th December to the 7th January last, and also of your behaviour to Captain and Mrs. Tucker during that time, I can merely state, that, as far as your general conduct came under my observation, I consider it was gentleman-like, having nothing particular in it to call for animadversion from any one.

Your behaviour to Captain and Mrs. Tucker, and their attention to you for the above-mentioned time, naturally induced me to suppose, that a great intimacy existed among you.

I remain, Sir,
Your obedient Servant,
JOHN D. ANDERSON.

To Lieutenant Frazer,
27th regiment.

(No. 13.)

St. Georges, 1st February, 1815.

SIR,

In reply to your note, I have to inform you for the satisfaction of your friends, that your conduct, on the passage from Halifax to this place, was in every respect like that of an Officer and a Gentleman; and from Captain Tucker's conduct towards you, I should conceive, that you were on very intimate terms.

Your most obedient Servant,
J. KNATCHBULL,
Captain R. N.

Lieutenant Frazer.

(No. 14.)

St. George, Bermuda, 16th February, 1815.

Dear Frazer,

I shall very candidly give you my opinion respecting your conduct, during the passage from Halifax to Bermuda. But, as I was not in the cabin more than twice during the passage, and then an intruder, my opinion is grounded, from what I saw upon deck; and if you allow I have had some experience, to be a little acquainted with the nature of military discipline; you will believe me, when I say, your conduct was such, as I have and do in general meet with; and, in no part of it, did I perceive any thing ungentlemanlike, or sufficient cause for complaint. Yet, allow me to say, and I am confident your own experience will agree with me, that when a Commanding Officer fancies himself offended, and is determined to find cause for complaint against any officer under him, who amongst us can escape?

And I rather think, your difference with Captain Tucker must have proceeded, from not agreeing with him respecting G——; and, only for that, you might have been as good friends at this moment, as you were all the passage, until the day we made Bermuda: however, a difference in opinion cannot be a crime, nor ungentlemanlike; and it is my firm belief was the only cause, as I before observed, of your disagreement.

I am, Dear Frazer,
Very truly yours,
W. LEWIS, Lieut. R. N.

Lieutenant Frazer,
27th regiment.

(No. 15.)

COPY.

La Chapelle.

SIR,

I request you will excuse my having an interview with Lieutenant Frazer; as such an event cannot be pleasant to my feelings, neither can it be productive of any alteration in the original agreement, as prayed for and entered into by himself, of quitting the 27th regiment, to save himself from being brought to a General Court Martial; and which arrangement was decided upon, and reported accordingly, to the Horse Guards, by Major General Sir Manly Power.

I therefore beg leave to assure you, that it is impossible that Lieutenant Frazer, can remain in the 27th regiment.

I have the honour to be, Sir,
Your most obedient,
and very humble Servant,
JOHN TUCKER, Captain 27th regiment.

Colonel Warren,
Commanding 1st batt. 27th Foot.
Villiers.

(No. 16.)

Address given by Mr. Galignani to Serjeant Major Armstrong, 27th foot.

Captain Tucker, 27th Regiment, at La Chapelle.
The last door to the left.

(No. 17.)

Brussells, 9th July, 1815.

DEAR HARE,

I received your last of the 4th, and for first few lines thereof, I return you my best thanks.

With respect to your very lengthened digression on the retention of poor Holmes's baggage—a digression so replete with animadversion, I cannot but be sensibly hurt at, and more particularly, as you could not know the cause of the detention. I shall now merely state, that most of the clothes were disposed of, (miserably bad and few) to the amount of 121½ francs; for which sum, as you state the Light Company so troublesome as to crave for, to be placed against me.

There was no money in the portmanteau. Miller tells me, that Holmes had his money about his person; and which is the same you allude to as being in possession of the Purveyor; and which Purveyor, Mr. U—— is, I find, at Head Quarters, Paris, where you can make yourself the necessary enquiries.

There were no private accounts, nor private letters.

Two horses, (one in Miller's possession) a saddle, and bridle, a regimental jacket, a sash (all unsold) shall be delivered to you, together with the company's book, and some abstracts.

With respect to the late Mr. Ireland's baggage, not

having heard, or seen any thing of it, I could not consequently give any directions concerning it; therefore I acquit myself of leaving it on your hands. In short, I can assure you, that under similar circumstances I should have no hesitation in proceeding in the same manner again, as I have done in the first instance, speaking professionally, and as a friend to the deceased; and that I feel myself fully confident, of having acted with the strictest propriety, on the occasion.

I shall cease further to dwell on this very unpleasant subject, than merely to tell you, that the Medical Gentlemen advised me to go to England; but that this business has determined me first to return to Paris, where I can personally answer any further proceedings, that you may choose to take in it. I shall set off in a week's time, when every thing shall be sent to you, together with an inventory of the articles disposed of.

Yours, &c. &c.
J. TUCKER.

Major Hare, First Batt. 27th Reg.

P. S. Serjeant Scott gave only two letters to the man you sent to him; the remaining he put in the Post Office.

Wray has just informed me, that Mr. U—— has a son in his department, and who is at Mons—he has been written to on the subject of the money—it rests therefore between the father and the son—the latter is said to be but an indifferent character.*

(No. 18.)

MEMORANDUM.

Captain Tucker, First Battalion, 27th Regiment, has received leave of absence to St. Denis, from the 19th of September to the 10th of October, 1815.

G. HARRIS, Adjutant General.

Head Quarters, Paris, 28th September, 1815.

(No. 19.)

Neuilly Camp, 27th September, 1815.

SIR,

I herewith transmit you a copy of the charges, which I have sent in to His Grace the Duke of Wellington

* It is with reluctance, the above passage is printed. Justice as well towards an individual, as towards the public, requires a declaration, that there have not appeared any grounds for so injurious a hint.

against you, accompanied with a request, that your conduct might be investigated by a General Court Martial.

I am, Sir,
Your very obedient Servant,
L. WARREN, Colonel.
Lieut. Col. 27th Reg. Com

To Captain Tucker,
First Battalion, 27th Regiment.
La Chapelle.

COPY.

Charges preferred by Colonel Warren, commanding the First Battalion, 27th Regiment, against Captain John Tucker of the said Regiment.

1st. For highly insubordinate and disrespectful conduct, in writing a certain letter, purporting to bear date on the 19th of September 1815, and addressed to Lieutenant General Sir Lowry Cole; wherein certain motives and conduct are imputed to the officers of the 1st battalion, 27th regiment, which, if proved, would involve their character as a corps and as individuals; and wherein the conduct of Colonel Warren, commanding the 1st battalion, 27th regiment, is complained of, and in several instances is falsely represented, thereby attempting to asperse the character of his Commanding Officer and the Officers of the Battalion.

2d. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in keeping and converting to his own use, on or about the 18th of June last at Brussells, contrary to the General Orders of Field Marshal His Grace the Duke of Wellington, a certain Bay Mare, belonging to some British regiment of dragoons, or regiment, or officer in British pay; and for effacing or attempting to efface, or causing, or conniving at the attempt to efface the regimental mark on the left flank or side of the said mare; and for advertising the said mare for sale, in a certain public paper, entitled Galignani's Messenger; and detaining her in his possession, until ordered by his Commanding Officer to give her up, on the 17th of September, 1815.

3d. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in keeping and converting to his own use, on or about the 18th of June last at Brussells, contrary to the General Orders of Field Marshal His Grace the Duke of Wellington, a certain Grey Mare, supposed to belong to some British officer or soldier, or officer or soldier of the Allied Troops; and for effacing, or causing,

or permitting to be effaced, a certain mark on the left flank or side, by which the mare might be more easily recognized and identified; and for selling the said mare to Lieutenant Duhigg, of the 27th regiment, for a certain sum of money, amounting in value to 200 francs French currency.

4th. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in breaking open, or causing, or permitting to be broken open without proper witnesses, at his lodgings in Brussels, the portmanteau, trunk, and canteen of the late Captain George Holmes of the 27th regiment, killed in the action of the 18th of June at Waterloo, and taking thereout, and disposing of, or appropriating their contents consisting of wearing apparel, money, and other valuable effects.

5th. For scandalous and infamous conduct, unbecoming the character of an officer and a gentleman, in burning, or causing, or permitting to be burnt, at his lodgings in Brussells, various letters and papers, contained in the baggage of the said Captain George Holmes, thereby destroying the materials, which were and are indispensably necessary to enable the Board of Enquiry, since ordered, to ascertain and determine the state of the regimental and private accounts of the said Captain Holmes.

L. WARREN, Colonel.
Lieut. Col. Commanding 1st. Bat. 27th Reg.

Neuilly Camp, 27th September, 1815.

(No. 20.)

Neuilly, 24th September.

SIR,

I am directed by Colonel Warren to acquaint you, that he understands you have a horse, which you will be pleased to send by the serjeant to the Quarter Master this evening, who is to take charge of it, as the General Order admits of no exceptions.

I have the honour to be, &c. &c.
A. BYRNE, Adjutant, 27th Regiment.

Captain Tucker, 27th Reg.

(No. 21.)

Inventory of Effects,

Belonging to the late Captain Holmes, 27th Regiment, together with the prices of things sold, came to.

	Francs.
Old Shaving Case and lot of Sundries	6
Blue Coat	12
Old do.	6
Small Flock Mattrass with Pillow	6
One Flannel Waistcoat	2
Three Shirts; Three very bad do.; Six pair of Socks	16
Three Sheets (two bad)	5
Four pair of old Short Boots; One pair of do. Shoes	9
Old Canteen (crockery broke)	8
Desert Spoon and Desert Fork, Foreign; Two small silver Tea Spoons	20½
Six Pocket Handkerchiefs	4
Old Buff Waistcoat	2½
Two Night Caps	1½
Two White Waistcoats	4½
Two Towels	1
Pair of Grey Pantaloons	8
Portmanteau (old)	10
Pair of White Cotton Pantaloons	4½
Forage Cap	10
	136½
Paid Farrier for attending Bât-Horse's back	15
	121½

Taken to the Regiment by Lieutenant Miller.

One Horse, with Saddle, Bridle, and Valise.
One Regimental Jacket.
One Sash
One Red Waistcoat with Gold Lace.
One Company s Ledger.
One Memorandum Book.
Bundle of Abstracts &c.
Private Letter from Major Kersteman.

Bât-horse with a Bridle sent by a soldier to the Regiment.

(No. 22.)

COPY.

DIVISION ORDER.

Bermuda, 28th January, 1815.

The General Court Martial, of which Major Butler was appointed President, will not take place; and the members of it, whose names were in orders, will return to their duty with their respective corps.

Brevet Major Sir Thomas Reed will order the written apologies of Lieutenant Frazer and Ensign   of the First Battalion, 27th Foot, to Captain Tucker, for their improper conduct whilst on board the Clarendon transport, to be inserted in the Regimental Orders of that corps.

The former having signified his intention of retiring from the 27th regiment, and the latter from the service, leave of absence will be granted to them, to return to England by the first opportunity. Those officers are to be released from arrest.

(Signed) H. BALNEAVIN,
Brevet Major and Acting Assistant Adjut. Gen.

COPY.

Beauregard, 15th November, 1815.

MY LORD DUKE,

In laying before your Grace, the proceedings of the Court Martial, upon the trial of Captain Tucker of the 27th regiment, I beg to inform your Grace, that the Court expressed a wish, in consideration of the length of Captain Tucker's service, and of his family, that he might be recommended for mercy.

I have the honour to be,
My Lord Duke, &c.
H. CLINTON, Lieut. General.

His Grace the Duke of Wellington, &c.

(A true Copy.)
I. A. O.

THE END.

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> In majesty of light,
> With Laughter by her side "—*Smollett.*

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THE CASE

OF

CAPTAIN ROBISON,



WHO WAS TRIED BEFORE A

GENERAL COURT MARTIAL,

HELD AT SYDNEY, NEW SOUTH WALES, IN THE YEAR 1828,

ON

EIGHT CHARGES,

BROUGHT AGAINST HIM BY

LIEUTENANT-GENERAL DARLING,

GOVERNOR AND COMMANDER OF THE FORCES IN THAT COLONY;

AND ON PART OF WHICH CHARGES CAPTAIN ROBISON WAS FOUND GUILTY, AND SENTENCED TO BE DISMISSED THE SERVICE.

The following pages are printed with a view to point out the great *injustice* and *oppression* of which Captain Robison has been the victim.

LONDON:

JAMES MOYES, TOOK'S COURT, CHANCERY LANE.

M.DCCC.XXXI.

CASE

OF

CAPTAIN ROBISON.

At the period of my dismissal from the service, I had been in the army twenty-five years, during nearly the whole of which I had been engaged in active service in different quarters of the globe.

In 1823 I was promoted, by purchase, after having served sixteen years as a subaltern.

In 1825 I was appointed from the half-pay of the 17th Light Dragoons to the New South Wales Royal Veteran Companies. See Letter of Service, APPENDIX, No. 1.

These companies were raised for a peculiar civil service, unknown before to the army, by the colonial department, with a view of their ultimately becoming settlers—their numerous families having been allowed to accompany them. As senior officer in England, (the eldest Captain-Brevet, Lieut.-Colonel Dumaresq, being on the staff of his brother-in-law, Lieut.-General Darling, in New South Wales), I raised and embodied them at Chatham, under the orders of Colonel Sir Archibald Christie, commandant of the depôt there. No staff, of quarter-master, pay-master, or adjutant, was appointed; and all these separate and responsible duties devolved upon me, in addition to my own. See Proclamation under which they were raised, App. No. 2.

My exertions in bringing into efficiency this corps, considering the novel elements of which

it was composed, were approved of both by his late Royal Highness the Commander-in-chief and the Secretary of State for the Colonies, as will be seen by their letters to Lieut.-General Darling,
See App. No. 3. the Governor of New South Wales, given me on embarking for that colony.

I sailed from England in command of the Veteran Companies in May 1826 (with the last division), and landed them and their numerous families (amounting to several hundreds) safely, at Sydney, in September of that year.

I was appointed to the command of all the mounted duties in the colony, consisting of the Governor's body-guard and mounted police, under
See App. No. 4. General Darling's own hand, Oct. 10; it having been directed at Chatham, that all the cavalry out-pensioners should be formed into my company.

I was put to the expense of purchasing horses and equipments for the above service; but, after the lapse of several months, Lieut.-General Darling changed his former orders, and placed my company, or the greater part of it, as mounted police, body-guard, &c. under command of the infantry officers of the line, whose regiments were stationed in the colony, and for which duty the Lieut.-General granted them extra colonial pay and allowances of some hundreds a-year.*

See App. No. 5. Lieut.-General Darling issued a general order by which each of the Veteran Companies I had brought out were placed under the command of their own immediate officers; and the small emoluments attached to me, as command-

* I would beg to ask my military reader, Was it *according to the rules of the service*, or *legal*, for Lieut.-General Darling to take the command of my own company from me, which I held under the King's commission, and give it to other officers, for the purpose of increasing his patronage, by granting them extra pay, &c. out of the colonial revenue?—R. R.

ing *the whole*, and which were allowed by the Secretary-at-war in England, thereby taken from me; since which period, the King's regulations and articles of war have been totally disregarded, by not forwarding to the different departments in England the monthly and other returns.

I may here ask, Is it probable the Lieut.-Gen. would have issued this order, had his own brother-in-law, one of the other captains, (Brevet Lieut.-Col. Dumaresq), commanded the whole of these companies?

I was ordered to the command of the Bathurst District, the most extensive in the colony, in the month of March 1827; and whilst there, was obliged to take notice of, and officially report to Lieut.-General Darling, the highly irregular and improper conduct of Colonel Stewart, commanding the 3d regiment (Buffs), the Lieut.-Governor. This officer employed soldiers of his regiment in his own private concerns, on an estate of fourteen thousand acres of land, which he possessed close to the settlement; and also caused slops to be sold to the settlers and their convict servants from the commandant's house—(part of which I found, on my arrival, had been converted into a store for that purpose)—slops which had been sent out, made up into bales, in the convict ships from England at the public expense, for the sole use of the Buff's regiment.

See App. No 6. Extracts from my Reports to the Commander-in-chief, Secretary of State, Gen. Darling, &c.

Shortly after my reports of Colonel Stewart to General Darling, I was recalled from the command of the district, by its being abolished as a separate district in general orders; but in a little time after my recall, it was again re-formed as a district, an officer of the 39th regiment being appointed commandant. It is here necessary to remark, that, at the time when my sense of duty thus led me to report the Lieut.-Governor, he was

See App. No. 7.

at that moment engaged as one of the executive council at Sydney, in furthering Governor Darling's project of imposing such a heavy stamp on newspapers as would have abolished them altogether, and which nothing but the legal interposition of the Chief Justice, who was also one of the executive council at that time, prevented.

On my return from Bathurst to head-quarters, accident threw in my way certain irons, which had been applied, by Governor Darling's orders, as instruments of punishment to the persons of two privates of the 57th, of the names of Sudds and Thompson.

I tried them on; and finding them to be of intolerable weight and peculiarly severe and unusual construction, expressed to a friend, who was with me at the time, my strong disapprobation of the use of such oppressive instruments. This conversation, and some others which I incautiously held on the same subject, soon afterwards reached (as I have reason to believe) the ears of the Governor.

On my arrival in Sydney, which was in June 1827, I applied for leave to proceed to England, in consequence of Gen. Darling having stated, that the Veteran companies had not answered the purposes for which they were raised; and his further having said, that he had recommended to the home government that they should be again returned to the out-pensioned list, and disbanded; which recommendation was immediately complied with in England, and orders sent him to that effect from the Horse Guards in May
See App. No. 8. 1828.

I obtained leave to embark for England, in charge of the invalids of the line, by which I was
No. 9. entitled to a *free* passage.

After making preparations for my voyage, by

selling off camp-equipage, horses, &c. at a very great loss, my leave to England was suddenly cancelled by the Governor, without any cause being assigned, and the command of the Invalids given to a friend of the Colonial Secretary, Lieutenant (now Captain) Christie, of the Buffs, though his regiment was at that period under orders, and embarking from the colony for India. I must here observe, that this officer, after his return to England, volunteered his evidence to the Colonial Secretary of State, impugning certain charges made against General Darling, for the alleged murder or manslaughter of Sudds, one of the above-mentioned privates, whose death was supposed to have been caused by the punishment he had received. See an extract from a letter of Mr. Wentworth, a highly respectable and talented barrister, who distinguished himself at the University of Cambridge, who took up the case of this unfortunate soldier on the grounds of public justice and humanity; and which letter he addressed to the Secretary of State for the Colonies.

See App. 10. Extract of Mr. Wentworth's

Immediately after my leave to England was cancelled, and without any previous notice, I was suddenly ordered to Norfolk Island, a penal settlement of the very worst description, distant upwards of 800 miles from the coast of New Holland, destitute of any free inhabitants, and to which no females were allowed, by General Darling's orders, to accompany their husbands, either soldiers or convicts. It was a place most aptly designated a second Gomorrah. I was selected for this odious duty, which the whole garrison held in abhorrence, notwithstanding another officer and detachment of the 39th regiment had been previously put in general orders for that command, and had made their private arrangements by the purchase of a year's supplies for that island.

See A[illegible] No. 11.

See A[illegible] No. [illegible]

This order was again countermanded by Governor Darling; and there being no quarters for me in the barracks, which was certified by the barrack-master, I was forced to the expense of hiring and furnishing lodgings, which I was obliged to take for twelve months, owing to the great difficulty of procuring them in Sydney. After the Governor had allowed me to incur all these heavy outlays, he again changed his general orders, and directed me to proceed immediately to Newcastle, an out-station upon the coast, for which duty he had previously put in general orders a subaltern and detachment of the 57th regiment.

All these different orders, counter-orders, and changes, seem to have had no other object than one of a personal nature towards myself—to harass, perplex, and perhaps even to drive me to commit a breach of military discipline, by a remonstrance against them; and with this offence General Darling subsequently charged me, on my trial, before a general court-martial.

At this period, the greater part of my company being distributed as mounted police and governor's guard in the colony, all the best-conducted soldiers were selected from them, and transferred to the company of Brevet Lieutenant-Colonel Dumaresq, then absent in England, on the plea, as stated in the general order, of equalising the two companies; and all the worst characters of the Veterans, who had been returned to Lieut.-Colonel Dumaresq's company as *unfit* for the civil employments of superintendents and overseers, were posted to my company to do garrison duty at Newcastle, Port Stephen, &c.; and of which duty they constantly complained to me, as their commanding officer, stating that, from wounds and other infirmities, contracted in their

former services, and for which they had been discharged, they were totally unable to perform it.

I must here remark, that Lieutenant-Colonel Dumaresq, from the period of the formation of the Veterans, had never done one hour's duty with them, although in the receipt of their cavalry pay, free rations, &c., and holding at the same time staff and civil appointments, through the patronage of his brother-in-law, General Darling, which gave him considerable emoluments.* See App. No. 15.

On my arrival at Newcastle, I was refused the occupation of the quarters I was entitled to as officer commanding, and put into inferior ones, by the express order of General Darling, directed to a subordinate, who had gone out to the colony in the transport with myself and company, as a steward and mate from England, and whom the Governor had nominated superintendent of convicts, public works, and deputy post-master there. See App. No. 16.

I was treated not only with the greatest indignity by this superintendent, but by all sorts of inferiors, before the convicts, for the evident purpose of lowering me in their estimation and that of the soldiers, and goading me on to commit myself by some rash act, which would enable General Darling to bring it forward as a military offence against me. In the meantime, the numerous complaints of the Veterans under my command, of the unexampled severity of the duty they had to perform, contrary to the proclamation under which they were raised, and which from time to time I made known to General Darling, See App. N[o.] 17. Memorials and P[eti]tions forw[ard]ed by the Veterans.

* This officer was also a large landed proprietor, having received free grants, town allotments, &c. amounting to several thousands of acres, and was, and is at present, one of the largest stock and land proprietors in the colony. One company of Veterans is still kept up for him.

were totally disregarded and unredressed by him.

I was refused the reimbursement of the expenses I incurred for the passage of myself and family, by sea, from Sydney to Newcastle, when proceeding there agreeably to the general orders, notwithstanding I had a detachment of soldiers under my command, and I had sent, as a voucher to that effect, the receipt of the master of the
App. 18. packet; nor have I been able to recover either this sum or my other withheld allowances, amounting to several hundred pounds, to this day: which could not have occurred, had not General Darling's orders set aside the King's regulations in my case, by his having, as I before stated, deprived me of the command of the companies, which left all our allowances at his Excellency's will and pleasure; a power he could not have exercised over any of the regiments of the line, they having commanding officers to protect them, who were accountable to the home authorities for the regulations and articles of war being adhered to.

On my application to the Secretary-at-war and General commanding-in-chief, since my arrival in England, for these withheld allowances, they informed me that a reference must be made back again to New South Wales, as Lieut.-Gen. Darling had neglected to send home the requisite returns of the Veterans, either to the army agent or the War-Office; and what aggravates this part of my case is, that I had repeatedly applied, previous to my leaving the colony, for a board of officers to
App. No. 19. examine and report upon my claims, which was invariably refused by Lieut.-General Darling.

As commanding officer at Newcastle, I had to furnish a guard, by the Lieut.-General's orders, for the protection of the Australian Agricultural Company's establishment, consisting of a million of

acres, at Port Stephen; and in the course of my duty, officially reported to the Governor acts of peculation upon the colonial government, by the superintendent of convicts, and superintendent of police at Newcastle and its vicinity, which came under my own personal observation. These two individuals were large land and stock holders; the superintendent of police having just before sold out of the army, when his regiment (the Buffs) were ordered to India. In short, there is scarcely a functionary in the colony, from the Governor's numerous family and dependents of the Darlings and Dumaresqs, to the district convict constable and colonial secretary, who does not traffic in land, stock, &c. to the great prejudice and ruin of the settlers, and the detriment and disgrace of the colonial government, whom they profess to serve, and from which they receive ample salaries.*

Reverting, however, to my reports of the superintendents of convicts and police, no sort of notice was taken of them, *at the time*, by the Governor; but, on the contrary, these persons were selected by him several months afterwards, as the chief witnesses against me on my trial, when the Lieut.-General himself was my prosecutor, and the framer of eight charges against me before a general court-martial, the president and members of which were also selected by him; and not until the court had terminated its proceedings, and the Lieut.-General had thus made use of their evidence against me, did he attempt the mockery of calling upon me to substantiate my charges against them; his Excellency being perfectly aware, from the time that had elapsed,

* The Colonial Secretary, Mr. M'Leay, receives 2,000*l.* a-year salary, besides 750*l.* per annum pension for former services; all which is paid by the colony.

that it was impossible for me to substantiate the charges *then*, as I could have done when I first brought them forward.

The Lieut.-General, however, was compelled to dismiss *one* of these individuals, the superintendent of public works, &c. immediately after he had given his evidence on my trial, upon a *part only* of what I had charged him with being proved against him by the officer in charge of the commissariat department at Newcastle. Nevertheless, this *favourite*, though discarded, servant of the Governor's had subsequently conferred upon him, extensive free grants of land, and other government favours.

See App. No. 20.

I was compelled, by the orders of General Darling, to defend myself on two infamous and absurd charges of feloniously causing a mail-bag to be opened (charges made by this said superintendent of convicts against me, after my reports of him to the Governor), before a bench of magistrates at Newcastle, nominated by the Lieut.-General, one of them being the very superintendent of police whom I had previously reported to him, as coupled with the superintendent of convicts in plundering government; but, although I particularly requested the Lt.-General, by letter, to nominate another magistrate to hear and determine these alleged felonious charges, he positively refused to do so; by which it was evident that all such persons as I had accused, in the execution of my duty, with malversation, and as unworthy of trust, were the very individuals who were not only protected by the Governor, but chosen by him as fit instruments to accomplish his purposes in effecting my ruin; and I am fully borne out in this remark from the circumstance, that after an adjourned sitting by this bench at Newcastle, for nearly three weeks before a prisoner population,

See App. No. 21.

App. [illegible]. 22.

to allow convict witnesses to be brought from distant parts of the colony to attempt the substantiation of these charges, they were on investigation found to be "frivolous and vexatious," (as will appear by the perusal of one of the magistrate's letters to me, who sat on the bench,) and were accordingly dismissed. See App. No. 23.

No notice was, however, taken even *then* by General Darling of the superintendent's conduct in prefering false and malicious charges against me, (for the obvious reason, that he had not at that time made use of his evidence against me before the court-martial); neither would this court allow me on my trial to prove that this man, as well as others, was an interested witness, nor permit me to shake the credibility of such evidence, having most severely censured me in their sentence for having attempted to do so, designating my conduct as "insolent, unmilitary, and disrespectful" to them; all which was meant not to leave me a chance of mercy, when the minutes of the court-martial should come to be examined at home.

Lieut.-General Darling, notwithstanding this civil investigation, *again* brought forward these two said infamous charges against me before a general court-martial, in which, as I have before stated, he was my prosecutor, and the nominator of the whole court who tried me; but even *there they could not be substantiated;* but of this persecuting conduct, on the part of my prosecutor, no notice was ever taken by the court-martial who tried me.

At the same time that I was forced as a criminal to answer these charges before a bench of magistrates at the station I commanded, a military court of inquiry, illegally and irregularly constituted, was ordered from Sydney to Newcastle by Lieut.-General Darling, to examine into

my military conduct. The president of this court (a particular friend of the Governor's, who had been sent from England as commandant of Norfolk Island, but had his destination changed by General Darling, and appointed to a most lucrative situation at Sydney,—that of civil superintendent of police, for which he received a salary of £800 per annum from the colony) was accompanied by two military officers from the garrison, as members; one of whom (Captain Forbes, 39th regiment) officiated as deputy judge-advocate, for which, contrary to usual practice, he received extra allowances of some guineas a-day, as did the whole commission.*

See App. No. 24.

See App. No. 25.

A soldier of my own company, of the very worst character (one Thomas Budd), who had previously been sent for by the military secretary and major of brigade, accompanied this court back from Sydney in the same vessel to Newcastle, where he openly stated to the other soldiers of the Veterans, "*that Governor Darling had given him a chair, to sit down for several hours in his Excellency's office; promised him his discharge, and to be the making of him, or any other soldier, who would come forward on Captain Robison's trial and give evidence against him;*" and, at the same time, he tampered with the other soldiers of my company to effect a like purpose: all of which will be seen in his evidence, and that of the other Veterans, on reference to the minutes of my court-martial—he and they having been summoned by General Darling for the *prosecution*.

Extract Evidence, No. 26, ...ared with ...original ...utes in ...-Adv. ...'s office.

Yet upon such evidence as this did this court convict me!

This soldier, who openly acknowledged to the

* Captain Forbes, as acting judge-advocate, netted upwards of £150 for his *assistance* in conducting the prosecution!

court that he had accused the Governor of having "made great offers" to him, to "induce him to give his evidence against" me, was suffered to go unpunished, notwithstanding I addressed an official letter to the president and court on the subject, of which no notice was taken; and the Governor had the hardihood to bestow favours afterwards on this person: for it will be found, that, after the trial, he obtained a grant of land, a discharge from the service, and a pension.

See App. No. 26*. New South Wales Gen. Orders for 1809, No 107. 113.

After being kept in arrest at Newcastle for several months, whilst the minds of the garrison, who were to try me at head-quarters, were poisoned against me by the propagation of the most infamous calumnies, I was at length ordered to Sydney, (the expenses of my own and family's passage to which place have never yet been reimbursed me,) and was brought before a general court-martial upon eight charges, drawn up by General Darling himself, founded for the most part on alleged acts of insubordination and breach of discipline.

See App. No. 27, for the names of members of the court-martial, &c.

The friends and brother-officers of those I had accused were nominated by the Lt.-Gen. as president and members, and one of them appointed to act as deputy judge-advocate in conducting the prosecution. The latter, instead of being one of the *oldest* and *most experienced*, was one of the *youngest* and most *inexperienced* officers of the whole garrison, having only received his ensigncy in 1823; and from the circumstance of his having been a member on the *court* of *inquiry*, was *incompetent* (as laid down by all authorities on military law) to officiate as judge-advocate on my trial before a *general court-martial*.

The selection of Captain Forbes for this duty I cannot but impute to a sinister motive, as there

was at the same time in the garrison an old and experienced officer, who held a deputation from home of deputy judge-advocate, but who, on this occasion, was not so employed.

I protested strongly against Capt. Forbes, and another member, Capt. Crotty, 39th regiment, having any thing to do with my trial, but both these challenges were over-ruled.

The daily minutes of my court-martial were carried by the deputy judge-advocate, as soon as the court rose, to my prosecutor at Government-house, during the nine weeks that my trial lasted; and Captain Forbes also allowed the minutes to be read by the prosecutor's chief witness, Captain Sturt, in his own private quarters—and *that*, too, at the time Captain Sturt was under examination.

This I myself witnessed, and protested against it in open court, when Captain Forbes acknowledged he had done so, as well as the impropriety of it; from all which circumstances I could not but infer, as did also my legal advisers who attended my trial, that the Lieut.-General as prosecutor, and Captain Sturt as his Excellency's chief witness, had most unjustly and illegally interfered with the court's proceedings.

See App. No. 28, for the peculiar case and correspondence of one of the prosecutor's witnesses, [illegible] Sweeny, [illegible] my company.

Upon my trial being closed, the proceedings were, by Lieut.-General Darling, forwarded to England; and by a general order the court was dissolved.

I was detained a prisoner in New South Wales (notwithstanding orders had been sent from England sixteen months previously, to disband my company) for upwards of two years before the sentence was made known to me, remaining all that time degraded and disgraced in the eyes of the army and the colony, excluded from all society, with my regulated allowances stopped; and not

until the month of April last was the sentence promulgated; which was to the effect that, having been found guilty on some of the eight charges, I was sentenced to be "dismissed the service," and from that day struck off all pay and allowances in his Majesty's army. In addition to this sentence, the court passed a most severe personal censure upon me for having protested (by the advice of my counsel) against its irregular and partial proceedings; and I am prepared to prove, that the most unjustifiable measures were resorted to, to prevent my introducing such exculpatory matter as would have shewn what the real motives of my prosecutor were in bringing me to trial, and have fully exonerated my character from the imputations he cast upon it.

I applied for a grant of land, such as had been given by General Darling to all the other officers and soldiers of the Veterans, who were disbanded and remained in the colony, and each of whom had also received mechanics (free of any expense) from government, to enable them to erect buildings upon their grants, implements of husbandry, certain portions of cattle, &c. as well as free rations for themselves and families. But all the above indulgences *I* was refused! See App. No. 29.

General Darling, however, was in the habit of bestowing profuse favours on such of the Veteran officers as were in his good graces; for, shortly after our arrival in the colony, he removed the subaltern of my company to a civil situation, with a salary of £400 per annum, in addition to his cavalry full pay, free rations, &c. in the Veterans, with whom he did no duty. See App. No. 30.

This was also the case with Assistant-Surgeon Gibson, the only medical officer attached to these companies, who, while on the full pay of the Veterans, with whom he was doing no duty, was

placed on the civil medical establishment by General Darling, for which he received a colonial salary, in addition to extensive free grants of land of several thousand acres; all this being in direct violation of the express orders of the Secretary of State for the Colonies, as also of an act of parliament.

ee App. No. 31.

I would call upon the reader to observe the treatment which I, as senior officer, who had raised and brought the companies out from England, met with, and contrast it with that of the above-mentioned favoured individuals. In *my* case, I was not only denied the *regulated allowances* to which my rank entitled me, and which were granted to all the officers in the colony, but by a continued and unexampled series of military oppression, was made a victim to the conscientious performance of my duty in the different stations where I commanded, by attempting to protect the interests of the Government, in exposing the acts of plunder and peculation practised by its officers to those authorities whose duty it was to have taken notice of, and put a stop to, such abuses, and not to have ruined and made me a sacrifice to the honest and upright line of conduct I pursued, and which it has been my pride and endeavour through life to maintain in all situations.

Immediately on the sentence of the court being made known to me in New South Wales, I was compelled to sell off all the little personal property I possessed, to meet the heavy expenses of my own and family's voyage to Europe; and I embarked for England, where I landed a few months since, thrown out of employment, and possessing no pecuniary resources whatever.

I applied, without loss of time, to the General commanding-in-chief, through his military secretary, for a revision or reconsideration of my case;

in hopes, if I could not get justice done me by being restored to the service, I might at least be allowed the sales of my commissions, having served chiefly on foreign stations for upwards of twenty-five years, and *purchased* my company; but after several months most anxious suspense, it was notified to me that my request could not be complied with. And I am now, after having devoted the best years of my life to the service, and expended all the property I ever possessed in it, turned adrift upon the world, to support myself and family how I can.

See App. No. 32. Petition to Lord Hill, forwarded by Sir James Mackintosh, M.P., and his Lordship's reply.

The whole proceedings of my court-martial, I am legally advised by the first law authorities, both in New South Wales and England, are directly contrary to law and the practice of conducting such courts. And, to give the opinion of one of these legal gentlemen, in his own words, in a letter from the colony, to a highly distinguished member of parliament, I was "made the victim of a most foul conspiracy;" the original documents in proof of which I am ready and most anxious to lay before any candid and competent tribunal, whether of a civil or military description.

R. ROBISON,
Late Captain New South Wales Royal Veteran Companies.

London, March 1831.

Since the foregoing pages were sent to the press, the following correspondence with the General commanding-in-chief has taken place, through his lordship's military secretary:—

London, March 22, 1831.

MY LORD,

The Judge-Advocate-General having lately been pleased to allow me to examine the original minutes of my court-martial, lodged in his office, and compare them with my own,

I found so many discrepancies on the original proceedings, that I felt it necessary to obtain the advice of a high legal functionary; and I beg to enclose your lordship six objections made by him to the *legality* of the proceedings.

May I request the favour of your lordship (as soon as convenient) laying the same before the General commanding-in-chief.

I have the honour to be, &c.

R. ROBISON,

Late Capt. N. S. W. R. V. Com.

M. General,
Lord Fitzroy Somerset, K.C.B.
Military Secretary, Horse Guards.

Some Points of Remark suggested by a short Inspection of the Minutes of Captain Robison's Court-Martial.

1st. Though the eight charges were (as the practice upon courts-martial require) brought forward at the trial *seriatim*, with the evidence in support of each, yet, in the original minutes of the proceedings lodged in the Judge-Advocate-General's office, the charges are all *heaped together*, and the evidence given *in mass*, so that it is impossible to ascertain, upon the face of the minutes, by what evidence a given charge was attempted to be sustained.

2d. On the 11th, 12th, and 14th of July, Captain Sturt was called as witness for the prosecution on the first and second charges, on which Captain Robison was convicted, and was cross-examined by Captain R.; but this cross-examination is not entered at its right place, as having taken place on *those days*, or in reference to *those charges*, but is entered as having taken place at a period of some weeks *subsequent* (11th August), and when a totally *distinct charge* (the seventh) was under consideration; so that, when the minutes are inspected, the whole effect of that cross-examination is lost.

3d. Lieut. Robertson, Mr. Mackie, and Mr. Wright, were called as witnesses for the prosecution on several of the charges on which Captain Robison was convicted; and Captain R. attempted to cross-examine them, with the object of shewing that he had had occasion to prefer charges against each of these persons for misconduct in their official capacity; but the court would not permit any questions of that tendency to be put.

4th. Thomas Budd, a private, was called for the prosecution in support of the third charge for exciting the men to discontent, on which charge Capt. Robison was convicted. Budd admitted, on cross-examination, that, in conversation with privates Murray and Pragnall, he had stated that he had conversed with Governor Darling, the prosecutor, *touching the evidence that he was to give*

against Captain Robison, and that great promises had been made to him touching that evidence. This account was afterwards confirmed by Murray and Pragnall, who stated that Budd had so expressed himself.

William Crutchley, private, a witness in support of the same charge, admitted, on cross-examination, that Budd told him that *all the Veterans who should come forward against Capt. Robison would get their discharges*, and *no others* of the Veterans.

Charles Faunt, private, a witness in support of the same charge, admitted, on cross-examination, that Budd had told him that he had received assurance from Captain Sturt (a witness for the prosecution, and military secretary to the Governor) that *he should be well provided for hereafter;* and that Faunt, *if he joined him in making charges and complaints against Captain Robison, should be also well provided for.*

(N.B. The said Thomas Budd has since the trial received a grant of land, been discharged, and pensioned, from the Veterans, as appears by General Orders of Governor Darling, bearing date the 4th and 15th days of July, 1829. New South Wales General Orders of 1829, Nos. 107 and 113.)

5th. The questions put to witnesses in support of the prosecution are in a great variety of instances of a *leading character*, and on that ground manifestly *irregular* and *unfair.*

6th. The Chief Justice of New South Wales (upon the sentence of Captain Robison's court-martial being promulgated in the colony) addressed a letter to Captain R., stating that a certain letter of his to the Governor, which had been brought forward to convict Captain Robison upon the first two charges by the prosecutor, General Darling, "*ought not to have been received by the court, as it had been, as legal evidence; and that, even if receivable, it by no means proved the fact which it had been supposed to establish.*" The Chief Justice further stated, that it was of such manifest injustice to Captain Robison, that he would address the Secretary of State for the Colonies upon the subject.

Horse Guards, April 4, 1831.

SIR,

Having submitted to the General commanding-in-chief your letter of the 22d ultimo, stating that "the Judge-Advocate-General having lately been pleased to allow you to examine the original minutes of your court-martial lodged in his office, and compare them with your own, you found so many discrepancies on the original proceedings, that you had felt it necessary to obtain the advice of a high legal functionary," and enclosing "six objections made by him to the legality of the proceedings," I have received Lord Hill's directions to state,

that it is not for his lordship to decide any question which a complainant may take upon himself to raise upon the legality of the proceedings of a general court-martial, which, after due examination and consideration by competent authority, have been submitted to the King, and approved by his Majesty.

It is, under these circumstances, out of Lord Hill's power to enter into the objections to which you refer.

I have the honour to be, sir,

Your obedient, humble servant,

FITZROY SOMERSET.

R. Robison, Esq.
Late Capt. N. S. W. Veteran Com.

As the following letter (in reply to one I had formerly written to his Majesty's private secretary) pointed out the Commander-in-chief as the proper channel through which any application of mine should be made, I, of course, on the present occasion addressed Lord Hill.

St. James's Palace, February 22, 1831.

SIR,

I have to acknowledge the receipt of your letter of the 18th instant, which, with its enclosure,* have been submitted to the King, who orders me to say that he cannot entertain your application, unless recommended by the General commanding-in-chief.

I am, sir,

Your obedient servant,

H. TAYLOR.

Robert Robison, Esq.
Late Capt. N. S. W. Veteran Com.

* A petition.

APPENDIX.



APPENDIX.

No. 1.

Horse Guards, Sept. 2, 1825.

SIR,

His Majesty having been graciously pleased to approve of your being appointed to one of the companies forming for service in New South Wales and Van Diemen's Land, I am directed by the Commander-in-chief to acquaint you, that your appointment will bear date on the 24th instant, and that the full pay of cavalry will be attached to the commission. You will therefore, on the receipt of this letter, make arrangements for repairing, by the 24th of this month, to Chatham, and report yourself to Colonel Sir Archibald Christie, from whom you will receive further instructions.

I am, Sir, &c.
(Signed) H. TAYLOR.

Capt. Robison,
Half-pay, 17th Light Dragoons.

No. 2.

Notice to the Out-Pensioners belonging to His Majesty's Royal Hospital at Chelsea, (including those transferred from Kilmainham Hospital), who reside in London and its Neighbourhood.

His Majesty having been pleased to approve of the formation of three Veteran companies, for service in New South Wales and Van Diemen's Land, each to be composed of three sergeants, three corporals, and fifty privates, for the purpose of being employed as superintendents and overseers of convicts, in addition to their military duty; and that such companies should consist of volunteers from the out-pensioners of this establishment, who shall have borne good characters while in the army, and whose subsequent conduct shall have been such as to recommend them for the service in question; a preference being, however, given

to those pensioners who were discharged as non-commissioned officers, or who have acted in that capacity:—

Notice is hereby given, that such out-pensioners of the description aforesaid, as reside in London and its neighbourhood, and may be desirous of volunteering their services in the said companies, are to signify their intention to the Field-officer who will be appointed to examine them, and who will attend at the board-room of the hospital for that purpose between the hours of ten o'clock in the forenoon and three o'clock in the afternoon, on the undermentioned days, viz.—Monday, Oct. 3, Tuesday, Oct. 4, and Wednesday, Oct. 5, 1825; and such out-pensioners are at the same time to produce to the said Field-officer, certificates from the minister and officers of the parish where they reside, or from some other respectable persons, to the effect that their conduct and habits have been such as to qualify them for the employment above described.

In consideration of the duties to be assigned to the volunteers who may be selected for this service, they will be allowed full pay of cavalry, viz.—Sergeants, 2*s.* 2*d.* per diem; Corporals, 1*s.* 7½*d.* ditto; Privates, 1*s.* 3*d.* ditto; together with free rations. And they will likewise, in case of their reverting to the out pension at any future period, be allowed to reckon the term they may have served in the said companies, in addition to their previous service in the army, with a view to their obtaining any increase of pension to which such additional service may entitle them under the regulations now in force.

It is to be observed, that this Notice does not extend to such men as, by the hospital books, exceed fifty years of age, or who have lost a limb, or labour under any serious bodily infirmity. Pensioners, eligible in other respects, will not be objected to on account of their having families, if not too numerous.

By order of the Lords and other Commissioners,

RICHARD NEAVE,
Secretary and Registrar.

Royal Hospital, Chelsea,
Sept. 12, 1825.

No. 3.

Horse Guards, April 18, 1823.

MY DEAR GENERAL,

I beg to introduce to you the bearer of this letter, Captain Robison, of the New South Wales Companies, and to recommend him to you as an intelligent officer, who has proved himself very zealous and attentive in the formation of those

companies. I trust you will find them composed of steady and useful old soldiers, and that they will answer the purpose in view.

Lord Bathurst complains of the expensive character of this corps, and perhaps with reason; but the inducement of superior pay was necessary towards obtaining the services of a better description of men.

I trust that we shall, ere long, receive letters from you, and a satisfactory report of your voyage and safe arrival, and of the state in which you have found things.

I must refer you to the papers for news from hence. At head-quarters we are well, and going on much as usual.

Believe me to be ever, with best wishes,

Most truly and faithfully yours,

(Signed) H. TAYLOR.

Lieut.-Gen. Darling, &c. &c.

Downing Street, April 6, 1826.

MY DEAR SIR,

I beg to introduce to your notice Capt. Robison, who goes out to New South Wales in command of the Veteran companies, now under orders for that colony.

Captain Robison, I believe, is already personally known to you; but, in consequence of the strong testimonials which I have received in his favour from Mr. Charles Grant, I cannot deny myself the pleasure of giving Captain Robison this especial introduction to your favour and protection.

I remain, my dear Sir,

Yours, very faithfully,

(Signed) R. W. HAY.

Lieut.-Gen. Darling, &c. &c.

(*Private.*)

Dublin Castle, Sept. 15, 1825.

MY DEAR GENERAL,

I beg to introduce to you Captain Robison, a near connexion of Lord Castlestuart, who is proceeding again to New South Wales. My best apology for troubling you, is the reply which I received some time since from Governor Macquarie, in reply to a similar introduction, which speaks of Capt.

Robison in terms which enable me to recommend him to you with greater confidence.

Ever, my dear General, most truly yours,

(Signed) HENRY GOULBURN.

M.-Gen. Darling, &c. &c.

(*Enclosure to Mr. Goulburn.*)

Government House, Sydney,
March 15, 1819.

DEAR SIR,

I had the pleasure on the 26th of November last of receiving your note, dated 30th July, 1818, per Lieutenant Robison, recommending that gentleman to my attentions here; and I beg now to return you my best thanks for giving me so very pleasant and agreeable an acquaintance, which he has proved himself to be in every society here.

Lieut. Robison is a very accomplished, well-informed young man, of highly-polished, conciliating manners, and has, consequently, rendered himself a universal favourite here. Mrs. Macquarie and myself have endeavoured to pay him every little attention in our power; and, whenever it takes place, we shall very sincerely regret his departure.

From various conversations I have had with Mr. Robison, he appears to be quite in raptures with this country and its delightful climate, and seems anxious to spend a part of his life in it, if he could succeed to any respectable official situation in it; and from what I have seen of this young man, I think he would do credit to any office he might be appointed to.

I have the honour to be,

With respectful esteem and regard, &c.

(Signed) L. MACQUARIE.

Henry Goulburn, Esq., M.P.
Downing Street.

(*Copy of Colonel Sir Archibald Christie's Report to the Adjutant-General.*)

Chatham, March 30, 1826.

SIR,

I have the honour to report, I yesterday inspected the men of the New South Wales Royal Veteran Companies. They are well clothed and appointed, and a most respectable set of old soldiers.

Great credit is due to Captain Robison for the zeal and attention which he has paid to their selection and formation.

I have, &c. &c.

(Signed) A. CHRISTIE.
Colonel.

To the Adj.-Gen. of the Forces,
&c. &c. &c.

No. 4.

It is intended that Captain Robison's company of the Veterans shall be employed in the duties of the mounted police, and furnish the Governor's guard.

The vacancies in Lieut.-Colonel Dumaresq's company are to be filled up by infantry soldiers from Captain Robison's.

The vacancies in Captain Robison's are to be filled up by the transfer of men from the body-guard and the present mounted police.

The four men of the mounted police at Wallis's Plains, belonging to the 40th, and the four men of the Buffs, are to join their regiments, and be replaced by eight men from the Veteran troop.

Eight men of the Veteran troop to replace an equal number of the Buffs, attached to the mounted police at Bathurst—the latter to join their regiment.

Two men of the Veteran troop to be stationed at Irish Town, and four in Argyle, as mounted police, as soon as horses can be provided.

The other stations (Paramatta, Windsor, and Liverpool) to remain as at present. One man of the Veteran troop to be sent to Longbottom to complete that station.

The distribution of the Veteran troop, when the arrangements are complete, will be as follows:—viz.

	Sergeants.	Privates.
Governor's guard	1	6
Bathurst mounted police	1	12
Wallis's Plains	1	15
Paramatta	0	2
Windsor	0	2
Liverpool	0	2
Longbottom	0	2
Irish Town	0	2
Argyle	0	4
	3	47

Establishment of the troop:—

1 Captain.
2 Subalterns.
53 Rank and file.

(Signed) RA. DARLING.

Oct. 10, 1826.

No. 5.

GENERAL ORDER, No. 83.

Sydney, 25th October, 1826.

No. 1.—The Veteran companies are not considered as a corps, but are to act independently of each other, under their own immediate officers.

By command,
H. GILLMAN,
Major of Brigade.

Extract from the Sydney Newspaper, "The Australian," of November 8, 1826.

"By a proceeding which took place in the barracks the other day, it would seem that the duties of the New South Wales corps are not very accurately defined; at least if any reliance can be placed on the statement of one of the members.

"A court martial was held to investigate into a charge which had been made against private John Eberson, for refusing to do garrison duty, and persisting in such refusal. On inquiry, it appeared that Eberson belonged to the New South Wales corps, and that after landing here, which was only a few days since, he refused to do the ordinary duties of a private soldier, alleging, that when he entered the corps, it was upon an express understanding that he should have an employment different from that to which a man with a red coat on his back is accustomed.

"There certainly appears to be some difficulty in assigning to the New South Wales corps the specific duties on which they are in future to be employed. To prevent misunderstandings, which may lead to insubordination, they ought immediately to be made sensible of their situation, and to know whether they are to act as soldiers in garrison, or according to some specific arrangements under which the corps was formed. It appears quite clear to us, that they were not to be considered as *soldiers in ordinary*, and that they will not in anywise interfere with that succession of regiments which take this colony in their route to India, and, while stationary, do all garrison duty. It

seemed to be thought, from the intelligence which reached us from England previous to the arrival of the New South Wales corps, that the men would be distributed over the country with their families; that they would act something like overseers—have, indeed, a variety of duties cast upon them, all tending to prevent the numerous excesses of a prison population. They were to form a check upon bush-rangers—have an eye to reputed receivers of stolen goods—exercise a vigilant superintendence over stock-keepers, &c.—interdict intercourse between runaways and overseers—prevent quarrellings among the servants of distant settlers and the aboriginal natives, and, by settling here with their families, help to improve the face of the country. But if they are to remain in barracks, and merely do garrison duty, the benefit of the contemplated arrangements will be wholly lost, and the children of the members of the corps, by receiving their 'education' in Sydney, will, in a few years, help to increase the number of the indolent and dissolute."

No. 6.

Extracts from Capt. Robison's Reports to the Secretary of State for the Colonies and Commander-in-chief in England, dated from New South Wales.

23d December, 1827.

Some little time after my arrival at Bathurst, upon taking over the command of the district from Lieut.-Colonel Wall of the Buffs, I found what in my opinion appeared a serious violation of the rules of the service by that officer, he having suffered a part of the Commandant's house to be kept as a store for Colonel Stewart, (the Lieut.-Governor commanding the Buffs,) who caused to be sold to the public from it clothing and other articles of necessaries, which had been sent out in transports from England for the express use of the Buffs regiment; and it was a subject of complaint amongst the settlers, that their assigned convict servants could not, in consequence, be known from the soldiers, owing to their dress; which very much assisted the crime of "bush-ranging."

I was compelled to take notice of a highly irregular and unmilitary practice, which I found to have existed some time, in Colonel Stewart's sending various detachments, composed of soldiers of the Buffs, from Sydney to Bathurst, upon his own private concerns; chiefly as escorts to drays, teams, &c. &c. containing farming utensils for his large estate, amounting to

fifteen thousand acres of the late Government reserved land, close to the settlement.

Knowing that the garrison duty in Sydney was at that time so severe, that the soldiers had only every other night in bed, I lost no time in reporting the circumstance, through the military secretary, Lieut. Condamine, 57th regiment, to his Excellency Lieut.-General Darling; and I beg to refer you to the accompanying correspondence:—

Commandant's Office, Bathurst,
20th March, 1827.

SIR,

Having been applied to by Deputy Assistant-Commissary-General Howard to sign ration returns for various men of the Buffs, who are *not* included in the duty strength of this district, I have the honour to request you will be pleased to inform me in what capacity they are to be mentioned in my monthly returns.

Three out of the five soldiers lately arrived from Sydney have produced the accompanying copy of a pass; the others have merely stated "they expect" their discharge.

I have the honour to be, &c.

(Signed) R. ROBISON,
Capt. New South Wales Veterans, and Commandant.

Lieut. Condamine, 57th Regt., A. D. C.
Military Secretary, Sydney.

His Majesty's 3d Foot, or Buffs, commanded by Colonel William Stewart.

Permit the bearers hereof, privates John Loverstone and William Sutherland, soldiers of the above-named regiment, together with John Sullivan, one of the four private servants allowed me by Government, to pass from hence to "*Throsby Park*," in Argyle, and from thence to proceed with a small flock of Merino sheep, belonging to me, across the Cockbundoon Range, and by the residence of Mr. M'Allister, justice of the peace, to the River Abercrombie; down the banks of which they will proceed for Bathurst, where they will report their arrival, and that of the sheep, to Lieut.-Colonel Wall of the Buffs, and to Colour-Sergeant M'Gregor, my overseer there.

Soldiers' rations are to be issued to them at the several commissariat stations; and the stock-keepers at each station will be pleased to insert the number of rations issued by him on the back of this pass, and to what date he has rationed them,

as a voucher for the guidance of the Quarter-master of the regiment,* and of the deputy Commissary-general.†

After they have rested a few days after their arrival at Bathurst, private John Loverstone will rejoin the head-quarters of the regiment at Sydney by the first opportunity; but private William Sutherland, and the private servant, John Sullivan, will remain with my other servants at Bathurst until farther orders; and John Sullivan will be rationed with my two other private servants now there, the same as a soldier, spirits excepted, as arranged with the deputy commissary-general at Sydney.†

Given under my hand at Sydney, this 6th day of February, 1827.

(Signed) WILLIAM STEWART,
Lieut.-Governor.

P.S.—A sealed haversack is herewith sent by the bearer, addressed to William Sutherland, and sealed in three different places with red wax and the regimental seal, and which contains two letters, with one pound of tea, and two pounds of sugar, for William Sutherland's use.

(Signed) WILLIAM STEWART.

I hereby certify that Private John Loverstone, of the Buffs, and one private servant, received their rations at Sydney, the 8th February.

(Signed) M. FUGLESON,
Acting Quarter-master-Sergeant, Buffs.

Commandant's Office, Bathurst,
28th February, 1827.

SIR,

The three men which have been sent to Bathurst with Colonel Stewart's sheep, viz. two soldiers and one private servant, are to be rationed at the commissariat stores.

I send their pass, on which you perceive is inserted the provisions they have received on the road since they left Sydney. It would be as well to give them rations up to the period that Colour-Sergeant M'Gregor has received rations for the other

* There was no Quarter-master to the regiment. He died upwards of a year previously to this pass being issued!

† Mr. Wemyss, the deputy Commissary-general in charge of the department, informed me that he had made no such arrangements, and that it was false.—R. R.

men of Colonel Stewart's establishment; after which he can draw provisions for them also.

I am, &c.

(Signed) CHAS. WALL,
Lieut.-Col. Buffs, Commandant.

Charles Howard, Esq.
Dep. Assist.-Commissary-General, Bathurst.

Bathurst, March 20, 1827.

SIR,

I have to request that rations may be issued to two soldiers of the Buffs, employed by Colonel Stewart, for which Captain Robison, the commandant, has agreed to sign a return; and when I go to Sydney, I will, if necessary, cause an authority from the deputy commissary-general to be sent you for so doing.

I am, &c.

CHAS. WALL,
Lieut.-Colonel, Buffs.

Charles Howard, Esq.
Dep. Assist.-Commissary-General.

Receiving no answer to the above communication, although every other letter, to the amount of eight or ten, were replied to; and a fresh detachment of the Buffs having arrived, as an escort to another private dray of Colonel Stewart's, I wrote the following letter, enclosing the pass, which was also unanswered:—

Commandant's Office, Bathurst,
16th April, 1827.

SIR,

On the 20th ult. I had the honour of forwarding a letter relative to the detention of some men of the Buffs in this district; and as I have received no answer to it, and being again applied to by Deputy Assist.-Commissary-Gen. Howard here (whose letter I enclose), I beg to forward you a copy of my former communication.

I take this opportunity of observing, that a very irregular practice exists of soldiers being sent into this district from Sydney, without reporting themselves to this head-quarters.

I have the honour, &c.

(Signed) R. ROBISON,
Capt. N. S. Wales Veterans, Commanding.

Lieut. Condamine, A. D. C.
Acting Military Secretary, Sydney.

His Majesty's 3d Foot, or Buffs, commanded by Colonel William Stewart.

Permit the bearers hereof, privates William Brown, George Brunt, and George Kearns, of the 3d regiment of foot, or Buffs, to pass from hence to the Commandant's at Bathurst on duty, in charge of a dray with stores, and accompanied by twelve prisoners of the crown,* assigned servants to Lieut.-Governor Stewart; and who are to return to the head-quarters of the regiment at Sydney, when they have delivered over the government servants in question, together with the dray and stores, to Sergeant M'Gregor at Bathurst.

Given under my hand at Sydney, this 6th day of March, 1827,

(Signed) WILLIAM STEWART,
Lieut.-Colonel, Buffs, and Colonel.

To all whom it may concern.

Rationed by me at Sydney up to the 8th March, 1827, inclusive; and they are to draw rations at Emn Plains, to carry them on to Bathurst.

(Signed) M. FUGLESON,
Acting Quarter-master-Sergeant, Buffs.

I likewise found men of the Buffs regiment employed upon Colonel Stewart's farm; and, in short, such a system carrying on as was, in my opinion, greatly injurious and derogatory to the service, particularly with reference to the nature of the colony, and emanating from so high an authority as its Lieut.-Governor.

The major of brigade, also a captain of the Buffs, (Gillman,) was a large land and stock-holder, and had just then sold several hundred head of sheep and cattle at the Bathurst settlement, having procured leave of absence from Sydney to proceed there.

Colonel Stewart was also in the habit of forwarding despatches in the name of the Colonial Secretary, and making use of the constables who were stationed on the road for the purpose of conveying them. In one instance I received a despatch, addressed to me as Commandant, *to be forwarded with all possible haste*, purporting to be from the Colonial Secretary, and directed on his Majesty's service, as follows:

"The Colonial Secretary requests Captain Robison will have

* N.B. Convicts; but the twelve were mechanics.—R. R.

the goodness to forward the two enclosed letters by bearers to their destination, with the least possible delay."

Colonial Secretary's Office, Sydney,
March 20, 1827.

Upon my arrival at Sydney, and shewing the original to Mr. M'Leay, the Colonial Secretary, he declared it was a *forgery;* and Mr. Harrington, the head clerk in the Colonial Office, stated it was in the handwriting of Colonel Stewart's clerk, and "that he could swear to it."

No. 7.

Brigade Office, Sydney, April 21, 1827.

SIR,

By the first paragraph of the General Orders, No. 38, you will perceive that the Lieut.-General commanding has thought proper to discontinue Bathurst as a separate district. You will therefore be pleased to return to head-quarters.

I have the honour to be, Sir,
Your most obedient servant,
H. GILLMAN,
Brigade Major.

Capt. Robison, Commandant, Bathurst.

GENERAL ORDER, No. 38.

April 3, 1827.

No. I.—Captain Robison, of the Royal Veterans, will return to head-quarters; Bathurst being discontinued as a separate district.

No. 8.

No. 20.395
1

War Office, May 30, 1828.

SIR,

I am directed to transmit herewith a copy of a letter to Lieut.-General Darling, containing instructions for the disbandment of the Veteran companies for service in New South Wales.

I am, &c.
(Signed) L. SULIVAN.

John Kirkland, Esq.

Mr. Kirkland has the honour to present his compliments to the officer commanding the New South Wales Veteran companies, and to annex a copy of a communication he has just received from the Secretary-at-War.

Mr. Kirkland begs to offer his services to the officers of the corps, and to enclose a form of power of attorney for the guidance of those who may wish him to act as their agent in this country.

General Agent's Office, London,
June 5, 1828.

No. 20.395
1

War Office, May 29, 1828.

SIR,

I have the honour to acquaint you, that the King has been pleased to command that the Veteran companies for service in New South Wales shall be disbanded.

You will have received the necessary instructions from the General Commander-in-chief, relative to the disposal of the men, who, of course, will be placed upon such pensions as they are entitled to.

The officers, who may have the option of remaining in New South Wales, can only be permitted to receive two months' full-pay from the date of disbandment; and those who return home will be allowed full-pay to the date of their arrival.

You will be pleased to acknowledge the receipt of this letter, and report to this office the date of the disbandment of the said companies.

I have, &c.

(Signed) PALMERSTON.

Lieut.-General Darling, &c. &c.
New South Wales.

No. 9.

Sydney, July 5, 1828.

SIR,

I have the honour to request you will be pleased to state to me, whether you did not, in the month of June, last year (as the Acting Major of Brigade), on the occasion of his Excellency Lieut.-Gen. Darling embarking to visit the northern settlements, bring me an official verbal communication from him, to the effect, that his Excellency had been pleased to grant

me leave to return to England, and that I should take charge of the first invalids about to be sent home?

I have, &c.

(Signed) R. ROBISON,
Capt. N. S. W. R. V. Corps.

Major Innes, 3d Regt. (Buffs),
Paramatta.

Paramatta, July 6, 1828.

SIR,

In reply to your letter of yesterday's date, I have the honour to inform you, that I do remember, on the occasion of his Excellency proceeding to visit the northern settlements, I did verbally communicate to you, that the Lieut.-General would give you leave of absence, and that you would get charge of the invalids proceeding to Europe.

I have the honour to be, Sir,
Your obedient servant,
ARCH. C. INNES,
Major (Buffs).

Capt. Robison,
N. S. W. Royal Vet. Company.

GENERAL ORDER, No. 58.

June 6, 1827.

The Lieut.-General has been pleased to grant Capt. and Brevet Lieut.-Col. Dumaresq, Royal Vet. Companies, leave to return to England on his private affairs, for 18 months, to commence from the 1st of the present month.

N. B.—Lieut.-Col. D. was absent upwards of two years. He did not return to the colony until the month of July 1829; when the following General Order was issued:—

GENERAL ORDER, No. 112.

Brigade Office, Sydney, July 13, 1829.

Lieut.-Colonel Dumaresq, having returned from leave of absence, will resume his duty as Aid-de-Camp, &c.; and Ensign Darling, 57th regt. will consequently return to the duties of his regiment.

By command,
(Signed) K. SNODGRASS,
Lt.-Col. and Major of Brigade.

No. 10.

Extract of a Letter from Mr. Wentworth to Sir G. Murray, Secretary of State for the Colonies. Printed by order of the House of Commons.

" Of the validity of these grounds of impeachment, and the nature of the offence which they respectively amount to, you, sir, will of course take the opinion of his Majesty's Attorney and Solicitor-General; and you will, I have no doubt, sir, be told by those high law officers of the crown, that these acts, which you will perceive flow necessarily from the Lieutenant-General's admissions, as contained in the various documents set forth in Appendix B, even though all the Lieutenant-General's statements and inferences should be true, and the death of Sudds not one of the consequences of the illegal punishment which he underwent on the memorable 22d of November, constitute in law what I have designated them, *high indictable misdemeanours.*"

Second Extract.

" My chief grounds for believing that this artifice was resorted to, will be found in the statement of Captain Robison, of the Royal Veterans, hereunto annexed in Appendix D. Of the accuracy of Captain Robison's statement, I myself entertain no doubt; and those gentlemen here, who have known him for many years longer than I have, feel, in common with myself, perfectly satisfied that no motive of personal malice or ill-will would tempt him to swerve in the slightest degree from the path of truth and honour. I make this prefatory observation on his testimony, because I am aware that the Lieutenant-General will attempt to weaken, if not to shake it altogether, by alluding to a late court-martial, in which Captain Robison was the defendant, and the Lieut.-General himself the prosecutor. I, for one, feel no doubt, that the chief, if not sole, motive in which this court-martial originated, was the accidental *trying on* of these chains by Captain Robison, in the manner stated in his letter, and the latitude of remark in which Capt. Robison indulged with respect to these *instruments of torture* afterwards. In a country like this, where an organised system of espionage opens the surest way to the patronage of the government, and where, consequently, scarcely a conversation takes place in any circle, social or otherwise, which is not immediately repeated at Government-house,—in such a lamentable state of society, in which no man can trust his neighbour, it is impossible that Captain Robison's observations, with respect to the character and weight of these chains, could have been long unknown to the Lieut.-General; and it is evident that this gentleman's private and individual

experience being thus at variance with the Governor's and the Colonial Secretary's public and official statements, it became expedient, if not essential, to the vindication of their *public character for veracity*, as to their *very official existence*, that some measure should be adopted to get rid of, or at all events to weaken, the effect of testimony, which it was foreseen would, sooner or later, rise in awful array against them. Hence a court-martial, the result of which, notwithstanding the *foul* means which were practised by this powerful prosecutor to get Capt. Robison cashiered, and the highly objectionable elements of which the court was in part composed, no one here doubts, who heard the trial, will prove highly honourable to this persecuted officer."

No. 11.

GENERAL ORDERS, No. 63.

July 14, 1827.

Captain Robison, of the Royal Veteran companies, will hold himself in readiness to proceed to Norfolk Island, in the room of Captain Wright, of the 39th regiment, notified for the commandant of that settlement in the General Orders, No. 59.

By command.

GENERAL ORDERS, No. 66.

July 18, 1827.

The Lieut.-General directs that six privates, single men, of Captain Robison's company of the Royal Veterans, will be in readiness to proceed to Norfolk Island by the first opportunity.

By command.

No. 12.

GENERAL ORDERS, No. 59.

June 12, 1827.

P. 2.—Captain Wright, of the 39th regiment, is appointed Commandant at Norfolk Island, and will proceed by the first opportunity to relieve Captain Donaldson, of the 57th regiment.

By command,

H. GILLMAN,

Major of Brigade.

No. 13.

GENERAL ORDER, No. 70.

July 28, 1827.

The General Orders, Nos. 63 and 66, are cancelled. Capt. Wright, of the 39th regiment, will consequently proceed to Norfolk Island by the "Governor Philip," now under despatch for that settlement. Capt. Donaldson, 57th regiment, will return to head-quarters by the same vessel.

By command.

No. 14.

GENERAL ORDER, No. 82.

September 5, 1827.

Lieut. Brown, two sergeants, and forty rank and file, of the 57th regiment, will relieve the detachment of the 39th at Newcastle.

By command.

GENERAL ORDERS, No. 83.

September 8, 1827.

Captain Robison's company of the Royal Veterans will relieve the detachment of the 39th regiment at Newcastle, as soon as the two companies are equalised.

GARRISON ORDERS.

September 8, 1827.

The Lieut.-General has been pleased to direct that the Veteran companies be equalised.

The under-mentioned non-commissioned officers and privates of Capt. Robison's company, at present attached to the civil service of the government, are transferred to Capt. and Brevet Lieut.-Col. Dumaresq's company, from the 25th ult. inclusive.

[Here follow the names.]

N.B.—The mounted police and Governor's body-guard are termed the "Civil Service" in the colony.

No. 15.

GOVERNMENT AND GENERAL ORDERS.

Colonial Secretary's Office, Dec. 21, 1825.

The Governor has been pleased to appoint Henry Dumaresq, Esq. to be his private secretary.

His Excellency has also been pleased to appoint Henry Dumaresq, Esq. to be clerk to the Executive Council, until his Majesty's pleasure shall be known.

By his Excellency's command,

(Signed) F. GOULBURN,
Colonial Secretary.

GOVERNMENT ORDER, No. 39.

Colonial Secretary's Office, Nov. 3, 1826.

His Excellency the Governor has been pleased to appoint Lieut.-Colonel Henry Dumaresq to act as clerk to the Legislative Council, in the room of Mr. Douglass, till farther orders.

By his Excellency's command,

ALEXANDER M'LEAY,
Colonial Secretary.

N. B.—These were only part of his *civil* appointments.

No. 16.

Extract.

Colonial Secretary's Office,
Sydney, Oct. 4, 1827.

SIR,

I am directed by his Excellency the Governor to request that you will provide a quarter, consisting of two rooms, in some of the buildings under your charge, for Captain Robison, of the Royal Veteran company, who is proceeding to Newcastle.

I have, &c.

(Signed) ALEXANDER M'LEAY,
Colonial Secretary.

Mr. Mackay,
Superintendent of Convicts, &c.
Newcastle.

No. 17.

Newcastle, 5th February, 1828.

SIR,

As my commanding officer, I take the liberty of addressing to you a few lines, trusting to your goodness to represent my case in that quarter from whence emanates my cause of complaint. In 1825, I was discharged from the 17th Lancers, with eighteen years' service, having served upwards of ten years in India, under the immediate command of Lieut.-Colonel the Hon. L. Stanhope, through whose intercession, and the kindness of Lord Fitzroy Somerset, I was put down to fill the first vacancy that occurred in the Ordnance Department as barrack sergeant; but shortly after receiving my discharge, and before any vacancy took place, I was informed that three companies of Veterans were about to be raised, selected entirely from the pension list, and those of the best of characters, to proceed to New South Wales, there to be employed as superintendents, overseers, &c. I embraced the opportunity, thinking, by a steady adherence to that line of conduct for which I was so strongly recommended on leaving my regiment, I should be enabled to provide decently for my wife and family. I accordingly repaired to Chatham, and was introduced to you, sir, by Major Bently; you asked me if I had any testimonials of good conduct; I produced documents from the whole of the senior officers then present with the regiment, most of whom, sir, you was personally acquainted with, and which you was pleased to say were the strongest you ever read. It being soon finally settled, I was entered upon the strength of the companies, which was no sooner done, than I received a letter from the Ordnance Department, appointing me barrack sergeant at Tilbury Fort barracks; but having engaged to proceed with your company to New South Wales, I sacrificed it; at the same time I wrote a letter of thanks to Lord Fitzroy Somerset, and stated my reasons for declining so eligible a situation. Immediately after my joining the companies, you was pleased to appoint me acting quarter-master sergeant, which duties I have since and do still perform, and to which has been added that of pay-sergeant to the company for the last eleven months. Upon my arrival at Sidney, I expected to be placed in some civil employ; but month after month elapsed without the least notice being taken, nor has any offer or proposal of any thing of the kind ever been made to me. I have hitherto endeavoured to perform the military duties required of me, still flattering myself, that when a vacancy occurred I should be appointed; but having waited for eighteen months, and finding my expectations as remote now as when I landed in the colony, and likewise observing that vacancies occur so often that

they seem obliged to take subaltern and petty officers of trading vessels arriving at Sidney to fill them; I therefore humbly request, sir, that you will have the goodness to represent my case to his Excellency the Governor. It may be urged, sir, that in consequence of so many complaints being presented against several of the Veterans who have had civil employments, his Excellency declines appointing any more; but surely, sir, that ought not to affect me, as there has been no complaint made against me since I have been in the colony. That several of the men's conduct has been complained of, I readily admit; but may I be bold enough to ask, sir, from whence originates the major part of those complaints? Merely this, sir; the men felt themselves aggrieved at being under the control of, and obliged to obey, the orders of *convicts;* nay, sir, many of them compelled to associate, diet, and sleep, in the same hut with convicts of the worst description. No man possessed of the least spark of pride (and there is no good soldier without it), but must feel himself very uncomfortable so situated. Hence arose the majority of those complaints; for the men would commit irregularities, merely with a view of being dismissed. I do not mention these circumstances, sir, with a view of vindicating any misconduct in the men: you are well aware, sir, that I always suppressed, as far as lay in my power, any misdemeanours that I may from time to time have observed, nor did I ever lose any authority by associating with, or making equals of, those whom my duty required I should keep at a proper distance; no, sir, I state it as matter of facts, facts that are still in existence; for there is not a single overseer belonging to the Veterans employed in Sidney, and there are many of them, but is under the command of a convict or convicts. I trust, sir, you will make a favourable statement of my case; there are many respectable situations in this country that I consider myself quite competent to fill, at present held by men who have not the least claim whatever upon the service. In order, sir, to give an idea of the numerous situations in which the colony abounds, I beg to mention some of those in this small settlement of Newcastle:—

Superintendent of convicts, salary 150*l.* per annum, house, coals, and servants. This man came out from England in the same transport vessel with myself, in capacity of junior mate and ship's steward.—Clerk to magistrates, 120*l.* per annum, house and coals. This man is a convict.—Chief constable at settlement, 100*l.* besides a pension, house, and coals.—District ditto, 2*s.* 10*d.* per diem, with coals. This man is a convict.—Free constable, 2*s.* 3*d.* Ditto, ditto, late convicts.—Convict ditto, 2*s.* Ditto, ditto, at present convicts.—Jailor, 80*l.* per annum; apartments, coals, &c. A convict.—Turnkeys and constables to jail, 2*s.* 3*d.* and 2*s.* per diem. Convicts.—Convict overseer, first class,

1*s*. 3*d*. per diem; second class, 10*d*.; third class, 6*d*. Pay of the Veterans as sergeants, 2*s*. 2*d*.; corporals, 1*s*. 7½*d*.; privates, 1*s*. 3*d*. per diem. I have taken the liberty to enter into particulars, sir, in order to shew what mortifications the Veterans have received from the arrogance of those men placed in those situations over them which they had every reason to expect to fill themselves.

I beg leave to subscribe myself, sir,

Your obedient and very humble servant,

(Signed) JOHN STAPLES,
Sergeant, Royal Veterans.

Captain Robison,
N. S. W. Royal Veterans, commanding at Newcastle.

The above is a correct copy.

JOHN STAPLES,
Sergeant, Royal Veterans.

Witness,
J. SWEENY, Lieutenant,
New South Wales R. V. Company.

To His Excellency Lieut.-General Darling, Governor and Commander-in-Chief in and over the Territory of New South Wales and its Dependencies, &c.

The humble Petition of CHARLES FAUNT,

Most respectfully sheweth,

That your Excellency's petitioner holds the rank of lance sergeant in the Royal Veteran company, and for the last nine months has been attached to the civil department at Newcastle, as marker at the coal mines.

That your Excellency's petitioner has a wife and young family of five children, entirely depending on him for subsistence; and the manner in which he is at present situated, renders it impracticable for him to earn any trifling assistance in addition to his pay to support his numerous family.

That your petitioner came to this colony under the immediate auspices of his late Royal Highness the Commander-in-chief, at the recommendation of Sir Herbert Taylor, (not on a par with the rest of the corps, he being no pensioner,) military secretary, under the promise of being well provided for in this colony; solely under that impression, your petitioner joined his present corps, in which he feels himself totally inadequate to support so large a family on his bare pay, and having the arduous duties he has to perform in this present civil situation.

Your petitioner humbly begs leave to refer your Excellency to his recommendations from Sir Herbert Taylor, and which were handed over to your Excellency by Captain Robison, at your petitioner's disembarkation in this colony.

Your petitioner most humbly sheweth, that your Excellency will be graciously pleased to take his case into your humane consideration, and grant him such allowance in addition to his military pay, as your Excellency in your justice and humanity may deem fit, to enable him to support his numerous family; and your Excellency's petitioner, as in duty bound, will ever pray.

CHARLES FAUNT,
4th Sergeant R.V.C.

Newcastle, October, 1827.

Witness,
J. SWEENY, Lieut.
New South Wales V. Corps.
JOHN STAPLES, Sergt.

Military Secretary's Office, Sidney, 29th Dec. 1827.

SIR,

I am directed by the Lieut.-General commanding, to request that Sergeant Faunt, of the Royal Veterans, who has been employed at the coal mines, may be ordered to join and do duty with the detachment under your command.

I have, &c. &c. &c.
CHARLES STURT,
Military Secretary.

Captain Robison,
Royal Veterans, &c. &c. &c.

Newcastle, 11th February, 1828.

SIR,

I hope I may be pardoned the liberty I take in addressing you; but knowing your general attention to the claims and interests of a deserving soldier, I am induced to address the following statement to you, and humbly beg you will be pleased to forward it to His Grace the Duke of Wellington, Commander-in-chief of the forces.

About fifteen months ago, I was sent to this place, for the purpose of being employed as a marker at the coal mines here, by order of his Excellency the Governor. This duty, which is arduous of itself, I did for thirteen months, I hope with credit to myself and satisfaction to the government; indisposition and internal suffering was at length the sole cause of my being under the necessity of tendering my resignation to the superin-

tendent of public works at this station, which, on being submitted to his Excellency, it was accepted, and I was ordered to remain in the settlement and do duty with the detachment of the company under your command.

Previous to this epoch, I had sent a memorial to Lieut.-General Darling, of which the accompanying document is a copy, praying I might be allowed some gratuity in addition to my military pay, to enable me to support a numerous family of five children, to which appeal I received no reply.

Two of my children would be of some service in aiding me in the maintenance of my family, as they are capable of entering a place of service, but not finding any sufficiently respectable here to employ them, and from other parental anxiety, they being females, I was necessitated to forward them, together with the mother, to head-quarters, Sidney.

Thus being placed, by orders of his Excellency, afar from my family, they depending on me for support, and yet unprotected by me, I am constrained to say, that having come out under the immediate auspices of his late lamented Royal Highness, the then Commander-in-chief, at the recommendation of Sir Herbert Taylor, military secretary, I had expected in some way to be more beneficially placed by the government here, with some means of maintaining my family; and in most respectfully requesting you to submit this to the high authority before mentioned, I humbly presume to anticipate some favourable result.

I am, sir, with the highest respect,

Your most obedient humble servant,

CHARLES FAUNT,

L. Sergt. R. V. C.

Captain Robison,

Commanding N. S. W. Veterans, Newcastle.

Witness,

J. Sweeny, Lieut.

New South Wales V. Corps.

John Staples, Sergt.

Newcastle, 29th January, 1828.

SIR,

With due submission, I forward these few lines to you, hoping they will meet your approbation, in me laying the following statement before you. Under proclamation, bearing date 23d December, 1826, by his Lords Commissioners, and others of his Majesty's Royal Hospital, Chelsea, and agreeable to the terms therein, I entered the New South Wales

Veteran companies, as a superintendent or overseer of convicts; and after my arrival in Sidney, was immediately placed on the garrison list for military duty, and shortly after was banished to Newcastle, with often only one night in bed. This I call hard duty; but little did I think, nor do I suppose that such old deserving soldiers, with good characters, should be selected for such hard duties. I have now served for nearly twenty-three years; and during which time have felt and experienced the fatigues and hardships that attended the continent of Europe, from the year 1808 until the year 1819, under the command of his Grace the Duke of Wellington. I was recently discharged for chronic rheumatism, wounds, &c. I never got the least chance or offer of any situation in the colony whatever, but military duty. I am at this present quite unfit for the military duty that is required of me at this present; therefore I hope you will look into my case, as I feel myself much hurt.

With due submission, sir,

Your most obedient and very humble Servant,

his
JOHN × KELLEY,
Mark.

Captain Robison. *Private, Royal Veteran Company.*

Witness,
J. Sweeny, Lieutenant,
New South Wales Veteran Company.
John Staples, Sergeant.

Newcastle, 21st February, 1828.

SIR,

I beg leave to lay before you, as being captain of the company to which I belong; I having entered into the Veterans under terms held out by the Lords Commissioners, as to be appointed a superintendent or overseer of convicts; but upon my arrival in Sidney, New South Wales, I was immediately placed to do garrison duty, often only one night in bed; and from thence I was ordered to proceed with my company to Newcastle, from which place I was ordered on detached duty to Port Stephens, and being embarked in an open boat, both me, and my wife and family, with a young infant child, where I remained one night, and a part of the following day, during which time I was exposed, both me, wife, and family, to a most severe and heavy gale of wind and rain, which my baggage being in the open boat, I sustained a heavy loss, by a part of my things being washed overboard and lost, and what was not washed away was totally damaged,

as they are to be seen at this present. I am now suffering from severe pains, which I caught through being in the open boat, in an open sea, on a most dangerous coast. Upon my entering into the Veterans, little did I suppose that military duty was designed for me, as it is well known that I was recently discharged from my regiment, totally incapable of further military duty, which I hope you will take into consideration, as I never had the least offer of any situation whatever, which was the terms held out in the proclamation by the Lords Commissioners and others.

I remain, sir,
Your most obedient humble servant,

Captain Robison. WILLIAM PHIPPS,
Second Veteran Company.

GOVERNMENT NOTICE.

Colonial Secretary's Office, Feb. 17, 1827.

His Excellency the Governor has been pleased to approve of the following alterations in the police of the colony.

In the county of Argyle, private Robert Aikenhead, Royal Veteran company, to take charge of the lock-up house and pound at Boong Boong, in the room of Jacob Wroughton, who is in future to act only as scourger and petty constable.

By his Excellency's command,

ALEXANDER M'LEAY.

Memorial of Robert Aikenhead, Private, New South Wales Royal Veterans, Captain Robison's Company.

Agreeable to an order from his Excellency, Lieut.-Gen. Darling, Governor-in-chief of New South Wales, I was sent to report myself to the bench of magistrates for the county of Argyle; and on my arrival, which was on the 26th January, 1827, they appointed me as chief constable, which situation I took charge of on the 20th January, 1827; but on the 12th February following, the bench had occasion to dismiss their gaoler, and at that time they could find no one to fulfil the said situation: they asked me if I thought I would be able to fulfil this duty, along with what I had taken in hand already: I replied, that I would do the utmost of my power to fulfil the two duties, which was very hard. My house being on the main road, I had all cattle to inspect, with regard to brands, and all government men for their protection. The bench said,

to me, that I should be paid for the gaol, which was 12*l.* per annum: which situations I faithfully fulfilled to the end of July 1827. During most of the time that I was in office, the constables, which had formerly been convicts, became very refractory, on account of the case of Robert Taylor, formerly clerk to the said bench. He had been empowered by the magistrates to draw the constables' pay, from the secretary's office, Sidney: after so doing, he absconded with it; in this case I have had a great deal of trouble, as I have in many more similar cases. The mounted police and constables were sent out after him; and I apprehended him myself, concealed under a bed, and brought him a prisoner to the bench: and, sir, I have now to remark to you the injustice they did me at this time. After my trouble in taking the prisoner, I certainly expected in this case some encouragement from the bench; but instead of that, they set him at liberty for two days, to make up his books. In course of these two days he absconded a second time, and he was re-taken, tried, and death recorded against him. Sir, this is to shew you their neglect, when I apprehended him the first time, in letting him go. In this case, if they had kept him safe, I was entitled to 10*l.* for his apprehension. Sir, the above prisoner had been twice convicted before he was clerk for the bench. At my resignment I requested a certificate to draw the promised pay for the gaol, which I got; and on my presenting it to the colonial secretary, the answer I received was, that nothing more than my military allowances could be granted me, sir. And another circumstance that I have to mention is, the case of Patrick Goodharty, who was apprehended on suspicion of cattle stealing; the magistrates seizing the said cattle, and placed them under my charge. I was at the expense of keeping a man three months to look after them, until the prisoner's trial came on; and at his trial he was cleared. The magistrates finding themselves in an error, ordered me to deliver his cattle *free of expense*, which certainly was a heavy loss to me. In the first place, the maintenance of the man that kept them, and in the loss of about 6*l.* of poundage; and, sir, if you consider my statement, you will see that I had every reason to resign and join my company.

ROBERT AIKENHEAD, Private,
Captain Robison's Company, New South Wales Royal Veterans.

Witness,
J. SWEENY, Lieutenant,
New South Wales Veteran Company.
JOHN STAPLES, Sergeant.
Captain Robison,
Commanding Royal Veteran Company, Newcastle.

Colonial Secretary's Office, 2d Oct. 1827.

In reply to your application, dated 14th of last month, for additional pay for your services in the Argyle Police, I am directed by his Excellency the Governor to inform you, that nothing more than your military allowances can be granted to you.

Robert Aikenhead, Newcastle. ALEXANDER M'LEAY.

SIR, *Newcastle, 10th Feb.* 1828.

I beg the liberty in which I have taken in writing these few lines to you. It is merely to lay before you the following statement, &c. Under a proclamation issued by the Lords Commissioners and others of his Majesty's Royal Hospital, Chelsea, 3d of October, 1825, and agreeable to the terms therein, I entered, with a view of being appointed as a superintendent or overseer of convicts, on my arrival in New South Wales, which was clearly laid down to me; but on my arrival in Sidney, New South Wales, I was ordered to the most hard and fatiguing military duty of the colony, as a mounted police, stationed at Bathurst, where I was constantly out in the bush, both nights and days, exposed to rains, colds, and heavy dews at nights, without the least notice being taken of the purpose for which I was sent out, nor got the least offer given me of such. During my time in the mounted police, I was present at the apprehending of several prisoners, which there was a reward for, and for which I gave a claim in to you, sir, for a part or share, to which I might be entitled, to which you received an answer from Lieutenant Everden, 3d Buffs, then commanding the mounted police at that station; that he, Lieutenant Everden, did not consider the mounted police entitled to the rewards, and therefore he did not think proper to draw it. This hard heartening duty I fulfilled for the space of seven months, when I was ordered to join my company in Sidney; then I was continued to do garrison duty, with often only one night in bed, and from thence to Newcastle. N.B. Those men selected from the regular troops to do duty in the mounted police, received an additional allowance of 9*d.* per diem, for which I received nothing but my regular pay, agreeable to his Majesty's proclamation. So, sir, you being captain of my company, I hope will be so kind as to look into this.

I am, with due respect,
Your most obedient, humble servant,
WILLIAM WAGER.

Witness,
J. SWEENY, Lieut.
N. S. W. Veteran Company,

Captain Robison,
Commanding Royal Veterans, Newcastle.

Newcastle, January 11, 1828.

SIR,

I hope you will excuse the liberty in which I have taken in laying before you the following statement, as being the captain of my company. At my arrival in Sydney, New South Wales, I was immediately placed to do garrison duty, with one night in bed, without ever having the least trial of any situation whatever. Military duty was not whatever intended by the Lords Commissioners, nor yet by me: for were it so, I would not have been passed by any military surgeon, as I was recently discharged totally unfit for further military duty;—which I have at this present a musket-ball in my body, which I received at Toulouse, 10th April, 1814—through the effects of wounds which I am now labouring under at present. I so continued at my duty in Sidney, until ordered with my company here to Newcastle, there to do the severe duty of that place, with one night in bed. From this I was ordered to Port Stephens, on a detachment duty, to protect the Australian Agriculture Company. I was obligated to lie in an open boat for three days and three nights, during which time I was in an open sea and dangerous coast; it rained for two days and two nights, and part of the third day, which I was exposed to the whole of the above time mentioned; and through the fatigues and colds that I received during the time, I was obligated to return back here, and go into hospital, where I received nothing whatever but such medicine as might be ordered by a colonial assistant-surgeon—not the least comforts whatever—there is no bed or bedding, cooking utensils, or any other comforts in it that I was used to in a military hospital; so that from my wounds, and fatigues, and colds that I have received, has left me at present totally incapable of accomplishing that hard military duty sent here to do in this place. So think very hard that my health should be so far injured, merely for the want of the regular nourishment that I was used to. I was sent out here by Government as a superintendent or overseer of convicts; but in place of that (convicts) are superintendents' overseers—which has left me to do hard military duty, which I am not able to do, as I was discharged from my regiment totally unfit for that duty. So I hope, sir, that as you are the captain of my company, you will be graciously pleased to look into this, as I find myself in duty bound to lay my statement before you.

I am, sir, with due respect, your most obedient, humble servant,

JOHN MURRAY,

Private in Capt. R. Robison's Company, N. S. W. Vet.

Witness,

J. SWEENY, Lieut. *New South Wales Vet. Corps.*

JOHN STAPLES, Sergt. *New South Wales Royal Vet.*

Captain Robison, commanding R. Vet. Company, Newcastle.

To his Excellency, Lieut.-General Darling, Governor and Commander-in-chief in and over the Territory of New South Wales and its Dependencies, &c. &c. &c.

The humble Petition of John Robinson of the Royal Veteran company, stationed at Newcastle, as orderly to the Military Hospital.

Most respectfully stateth,

That your Excellency's petitioner joined his present corps when it was first embodied; and after remaining three months in it, he was, in consequence of ill health, discharged.

That your petitioner on receiving his discharge, he petitioned Sir Robert Peel, then Secretary of State for the Home Department, for a free passage to this colony, which application was recommended by the Deputy-Assistant Adjutant-General of the forces, and R. Canning, Esq. In answer to which, he was assured by Sir Robert Peel, that if your petitioner came to this colony with the Veteran company, he should, on his arrival, be appointed to a comfortable situation; and, should a military life hereafter disagree with his health, he should have the benefit of his former discharge forthwith.

That your petitioner having served the long period of twenty-six years in the army, and finding his present state of health much impaired; and feeling himself inadequate to execute the duties attached to an active soldier's life, having a wife and family depending on his sole exertions for support; and having served in the English metropolis as a constable for a period of six years and a half; he most submissively begs leave to refer your Excellency, as to general character, to A. M. Baxter, Esq., His Majesty's Attorney-General, and Lieut. Lane, of H. M. 47th regiment.

Under the foregoing circumstances, your petitioner most humbly prays that your Excellency may be graciously pleased to allow him the benefit of his former discharge, and appoint him to such situation as your Excellency, in your justice and humanity, may deem fit; and for such mark of beneficence, your Excellency's petitioner will, as in duty bound, ever pray.

his
JOHN × ROBINSON.
mark.

Witness,

J. Sweeney, Lieut.
N. S. W. Veteran Corps.

John Staples, Serg.
N. S. W. Veteran Corps.

Newcastle, Jan. 15, 1828.

Newcastle, Jan. 26, 1828.

SIR,

With due submission, I forward those few lines to you, hoping it may meet your kind approbation to look into my case, which is as follows:—

Under proclamation, dated 23d Dec. 1828, and upon conditions offered and held out to the out-pensioners of His Majesty's Royal Hospital, Chelsea, I entered to be a superintendent, or overseer, of convicts; military duty was not by no means intended by me, and many others.

I arrived in Sydney on the 1st of August, 1827, and, not many days after, I was placed on the list for garrison duty, without the least offer towards terms held out by proclamation, which I am still doing, and labouring under the effect of severe wounds which I received at the capture of Washington (America), 24th August, 1814.

I have served in His Majesty's 85th regiment upon the continent of Europe, from the year 1809 until the year 1814, which fatigues and hardships are to you and many others well known, which I suffered with comfort and content in the defence of my king and country; also at Flushing, 31st August, 1809, (capitulated).

I therefore hope, that through your former goodness you will look into this and take it into consideration; for were any such thing as military duty held out by proclamation, I should not have entered, and which I find, that through severity of wounds, I am rendered totally unfit for military duties.

I remain, sir, with due submission,

Your very obedient humble servant,

THOMAS WALSH,

Corporal New South Wales R. V. C.

Captain Robison,

Commanding R. V. Corps, Newcastle.

P.S. I have been invalided from Saint John's, Newfoundland, North America, in consequence of severe wounds, and no way fit for military duty.

Newcastle, 29th January, 1828.

SIR,

I hope you will pardon the liberty that I am about to take in addressing you upon the following subject:

A proclamation being published by order of the Lords Commissioners, and others of his Majesty's Royal Hospital, Chelsea,

bearing date 23d of December, 1826, to the out-pensioners of his Majesty's Royal Hospital, Chelsea:

It being deemed that an augmentation should take place in the three Veteran companies, consisting of mechanics only, to act as superintendents and overseers of convicts in the colony of New South Wales, and as such and none other did I enter, being a bricklayer by trade.

But shortly after my arrival at this colony, was there sent to do military duty, which I continued so to do so long as my health permitted. It was not my intent at the time of entering into this corps that I was subject to those duties, as I was well aware, that through my former services and afflicting wounds which I have received on the continent of Europe, would render me incapable of performing such hard duties; and without further hesitation was sent to Newcastle, there to do military duty, with often only one night in bed, without even giving me the least encouragement or trial of my profession in trade.

I am, sir, with due respect,

Your most obedient humble servant,

his
RICHARD × BROWNING,
mark.
Private 2d Vet. Company.

Witness,

J. SWEENY, Lieut.
New South Wales R. V. Company.

JOHN STAPLES, Sergt.
New South Wales R. V. Company.

Captain Robison,
Commanding R. Vet. Com. Newcastle.

Newcastle, 26th January, 1828.

SIR,

I am emboldened through your well-known attention to the justice, rights, and &c. of a soldier, which I do now lay before an statement of the same before you, as being captain of the company to which I now belong.

According to proclamation, bearing date 23d Dec. 1826, by the Lords and others, Commissioners of his Majesty's Royal Hospital, Chelsea, I entered under the conditions therein laid down; I was approved of, and joined at Chatham on the 29th January, 1827, and disembarked in this colony in the month of August in the same year; and, shortly after my arrival, was appointed to the engineer department, as clerk in the lumber-yard, Sydney, under the guidance of Captain Dumaresq, of the

engineer department. Shortly after, an overseer and crown prisoner convict, named Kettle, of the carpenter's gang, working at government house, was dismissed from his charge as overseer. I was there and then ordered to go and take charge of the above gang. During my time in charge of the above carpenter's gang, I was visited by a man on horseback, named Peter Howell, a crown prisoner convict, who inquired of me how the work or works were going on? I answered him in reply, that the works were going on so that there were no reason to complain, and he then rode away. In about a week after, I was ordered to the lumber-yard, to my former office as clerk: in the course of a few days after, Lieutenant Condamine ordered me up to the Carter's barracks to an officer that was there, giving me a note to the superintendent at the above barracks. I immediately proceeded and delivered the above note to the superintendent. I was then sent into the office, and my daily work shewn me by a schoolmaster at the Carter's barracks, as crown prisoner convict, whom, I suppose, had orders to that effect. I asked where the quarters was that I was to occupy, which he told me was in rear of Mr. King's, leading into town, where, on my return, I found them as directed; the quarters were both small, filthy, in an unrepairable state, and partly standing upon an open common, and in a state not fit to be seen.

The day following I reported the case to Lieut. Condamine, who told me that he would put another Veteran into it to keep me company. I told Lieut. C. there were plenty of room in the military barracks. I suppose, said Lieut. Condamine, you don't like to go there? I answered him, no sir, I do not: well, then you shall go to Newcastle, and join your company, there to do your military duty; so hold yourself in readiness to join at the first opportunity.

Agreeable to a garrison order I joined your company, where I was placed to do military duty, which I did as long as my health continued; but soon, through rains and cold nights, I became a victim, and is now labouring under rheumatic pains or cold effects.

I am, sir, with due respect,

Your very obedient humble servant,

THOMAS BUDD,

Royal Vet. Company.

I am now suffering from a severe wound which I received at Albuhera, on the 16th of May, 1811, in the 31st regiment of foot, and is not at whatever able to stand sentry through the effects. I never did expect to have been put on such hard duty

as this when I entered, I came as a superintendent or overseer; as being captain of company to which I belong, I hope you will look into my case.

(Signed) THOMAS BUDD,

(A true copy.) *Private Royal Vet. Com.*

To Captain Robison,
Commanding Royal Vet. Com. Newcastle.

Witness,
J. SWEENY, Lieut.
New South Wales R. V. Com.
JOHN STAPLES, Sergt.

R
271.

Office of Ordnance, 10th August, 1827.

RODERICK ROSS,

I have submitted to the Board of Ordnance your application dated 4th instant, soliciting permission to proceed to New South Wales as a settler.

And I am directed in reply to acquaint you, that the Board have no objection to your going to New South Wales.

I am your humble servant,

(Signed) R. BYHAM.

Artillery Pensioner, Watt's Court, Aberdeen.

N.B. This man was obliged to join the Veteran companies, (although his pension was equal to his pay, and he had been discharged as a non-commissioned officer from the artillery, but *forced* to do private's duty in Veterans,) and being an excellent carpenter, was sent to work at his trade for the government, but without his receiving any extra remuneration.

The greater part of the Veteran companies were old pensioned sergeants from cavalry, life-guards, &c.; but, by the orders of General Darling, compelled, from their landing in the colony, to do garrison duty as *privates*: old soldiers will understand what sort of degradation this must have been.

Most of their out-pensions were equal to their pay! but there was no redress to be had in New South Wales; and I was made a victim of, and ruined, for attempting to do my duty in protecting these old and deserving Veterans from the injuries and punishments heaped upon them.

R. R.

No. 18.

Newcastle, October, 1827.

£17.

Received from Captain Robison, New South Wales Royal Vet. companies, the sum of seventeen pounds sterling, being the amount of his own and family's passage-money in the Lord Liverpool packet, from Sydney to Newcastle.

A detachment of Captain Robison's company came in the same packet, under command of Captain R.

(Signed) ALEX. LIVINGSTONE,
Master of the Lord Liverpool Packet.

No. 19.

Government House, 24*th October*, 1829.

SIR,

I have not lost a moment in bringing under consideration of the Lieut.-General commanding, the subject of your communication, and I am directed to inform you, that, as he is already acquainted with the various claims you are desirous of submitting to a board of officers, as well as the particulars on which you found those claims, he considers himself perfectly competent to judge of their merits, and must therefore decline according to your request.

I have the honour to be, &c.
(Signed) HENRY DUMARESQ,
Lieut-Colonel, Private Secretary.

Captain Robison,
New South Wales Royal Vet. Com.

Brigade Office, Sydney, 24*th April*, 1830.

SIR,

Having submitted to Lieut.-General Darling your letter of this day's date, requesting that some method should be adopted to enable you to submit certain documents which you conceive entitle you to various allowances to which you lay claim previous to your departure from this colony: I am directed by his Excellency to refer you to the replies already made to your applications on this subject.

I have the honour to be, sir,
Your obedient servant,
K. SNODGRASS,
Major of Brigade.

Captain R. Robison,
Late of New South Wales Royal Vets.

No. 20.

Colonial Secretary's Office, 29th October, 1828.

SIR,

It appearing by the proceedings of the court of inquiry lately held at Newcastle, that Mr. Mackay, late superintendent of convicts and works at that place, had made use of the government reserve (land) at Nelson's Plains, for his private purpose, without any authority for so doing, and having thus contravened the intentions of government, which, according to the general principle, had refused granting him any land while in the situation he then held;* I am directed by his Excellency the Governor to inform you, for the purpose of being communicated to Mr. Mackay, that it is considered that the government could not continue him in its employment, without affording an example which could not fail to prove injurious to the public service; and that he is in consequence to be discontinued from the end of the present month.

I have the honour to be, &c.

(Signed) ALEX. M'LEAY,
Colonial Secretary.

Captain Dumaresq,
Royal Staff Corps, Superintendent of Public Works, &c. Sydney.

* Why was not this *general* principle equally carried into effect and acted upon with the Colonial Secretary; Lieut.-Governor Colonel Stewart; Lieut-Colonel Dumaresq, Veterans; Captain Dumaresq, Staff Corps; Principal Superintendents of Police and Convicts at Sydney; Major of Brigade, Captain Gillman; and numerous others who held land and trafficked, &c. in its produce; at the same time they were in the receipt of enormous civil and military salaries? The answer is plain to all disinterested and honest men. That the Governor's ...... would be at an end by it, and .... R. R.

No. 21.

Military Secretary's Office, Sydney, March 22d, 1828.

SIR,

I am directed to acquaint you, that his Excellency the Governor has given directions to the Superintendent of Police at Newcastle, to investigate a representation that has been made by the Deputy Postmaster of that place, Mr. Mackay, of your having proceeded on board the packet, and taken possession of,

and opened the mail bag in his absence, and taken therefrom sundry letters.

I have the honour to be, sir, &c.

(Signed) CHARLES STURT,

Captain Robison, *Military Secretary.*
R. N. S. Wales Vet. Com. Newcastle.

N.B. Why did not his Excellency previously order an investigation of my charges against him for peculation, and on only part of which being proved by another officer at Newcastle, he was dismissed ?

R. R.

No. 28—221.

Colonial Secretary's Office, 21*st March*, 1828.

SIR,

In transmitting to you the accompanying extract of a letter from the Superintendent of Public Works and Deputy Postmaster at Newcastle, I am directed by his Excellency the Governor to request that you will obtain the assistance of another magistrate, and investigate and report upon the circumstances therein stated, of Captain Robison, commanding the Veteran company, having taken the mail-bag to his quarters, and opened it in Mr. Mackay's absence; and also of his having, on a former occasion, opened letters addressed to Mr. Mackay from this office.

In conducting this inquiry, you will be pleased not to call on Lieut. Robertson, of the 57th regiment, commanding mounted police, to assist you *as justice of the peace*,* which would be inexpedient under present circumstances.

I have the honour to be, &c

ALEXANDER M'LEAY,

Samuel Wright, Esq. *Colonial Secretary.*
Justice of the Peace, and Superintendent of Police,
Newcastle.

* I had previously been compelled by the soldiers of my company of Veterans, who were attached to the mounted police under Lieutenant Robertson's command, to take notice of, and report to, Lieut.-General Darling, the scandalous conduct of this officer in cohabiting with a soldier's wife of the 3d regiment (whose husband was obliged to accompany his regiment to India), whom he kept in a state of adultery in his quarters at Wallis Plains, near Newcastle, as well as afterwards in the Sydney barracks, and by whom he had a family. This woman most indecently interfered with the Veterans and their families; but in place of my being called upon to *substantiate these charges*, this officer was some time after selected by General Darling as one of his witnesses against me on my court-martial, to prove his charges, and deposed to conversations which he acknowledged took place in my quarters at Newcastle, when he called to pay *a private visit* to my family. See his evidence on my trial. R. R.

Newcastle, March 25, 1828.

SIR,

In compliance with the instructions contained in the Colonial Secretary's letter, dated the 21st inst. (a copy of which is herewith transmitted), I have to acquaint you that George Brooks, Esq., justice of the peace,* and myself, propose entering on the investigation required, to-morrow, in the private room of the Police-office (or at my residence, should you prefer it),† at any hour it may suit your convenience to attend, and which you will be pleased to signify in reply to this communication.

A letter to your address, sent to me in envelope by the Military Secretary, with a request that it should be delivered to you, I have now the honour to forward, the receipt of which you will be pleased to acknowledge.

I have the honour to be, &c.

(Signed) S. WRIGHT,

Justice of the Peace, Superintendent of Police.

Captain Robison,
Royal N. S. W. Vet. Comp. Newcastle.

* This man was appointed colonial assistant-surgeon, and stationed under me at Newcastle, and is also a large landed and stock proprietor.—See his evidence, denying, *on oath*, that he had been either directly or indirectly requested to attend, as a magistrate, this investigation.

† I preferred the investigation to take place in the open Police-office, to let the public witness this infamous transaction. R. R.

Extract from Alexander M'Leay's Letter.

Colonial Secretary's Office, Sydney, 26th March, 1828.

I am directed by the Governor to add, that instructions have been sent to the superintendent of police, to investigate the circumstances relative to the opening of the mail-bag; and that you will be called upon, in consequence, to appear before the magistrates.

I have the honour to be, &c.

ALEXANDER M'LEAY.

Captain Robison,
N. S. W. Royal Veteran Company, Newcastle.

Extract of a Letter from Mr. D. F. Mackay, Superintendent of Public Works, and Deputy Postmaster at Newcastle, to the Hon. Alexander M'Leay, Esq., Colonial Secretary.—Dated 17*th March*, 1828.

A circumstance occurred, connected with the post-office department, which I feel it my duty to bring under his Excellency the Governor's notice, in order to prevent a recurrence of such unwarrantable conduct. On the arrival of the packet yesterday morning, at eight o'clock, Captain Robison, of the Royal Veteran Corps, went on board, demanded the mail-bag, took it to his quarters, and opened it, notwithstanding its being sealed and addressed to me.

On a former occasion, the same gentleman took the liberty of opening and perusing my official letters from the Colonial office, without any authority whatever from me.

(Signed) D. F. MACKAY.
Superintendent of Convicts, &c.

No. 22.

Extract of a Letter addressed by Captain Robison, at Newcastle, to his Excellency Lieut.-General Darling. Dated March 25, 1828.

On the 20th inst. I delivered into the hands of the Assistant Colonial Secretary, Mr. Harrington, at Sydney (in the absence of Mr. M'Leay), a written report of the transaction relative to the opening of the mail-bag; and I have now to submit to your Excellency, as Mr. Wright, the superintendent of police at Newcastle, has already been reported by me as coupled in certain transactions with Mr. Mackay, that I respectfully trust your Excellency will be pleased to nominate another magistrate for this felonious investigation, conceiving that impartial justice could not otherwise be done.

(Signed) R. ROBISON,
Captain, N. S. W. Royal Vet. Comp. Commanding at Newcastle.

His Excellency
Lieut.-Gen. Darling, &c. Sydney.

Extract of a Letter from Alexander M'Leay, Esq., Colonial Secretary, to Captain Robison.

Colonial Secretary's Office, Sydney, 2d April, 1828.

SIR,

I am directed by the Governor to acknowledge your letter of the 25th ult., addressed to his Excellency, and

to inform you, that his Excellency cannot admit of your objection to the superintendent of police (Mr. Wright), as in simply taking depositions* upon certain facts, he can have no opportunity of indulging, if so disposed, in any feelings of hostility to any party.

I have the honour, &c.

(Signed) ALEXANDER M'LEAY,
Colonial Secretary.

Captain Robison,
Commanding Veterans, Newcastle.

* Mark, in all his "instructions" to the superintendent of police, it is called an investigation, no doubt with the intent of getting me committed for a felony!! For, had I been found *guilty*, the magistrates must have done so; and I should have been tried before the supreme court of justice of the colony. R. R.

No. 23.

Sydney, 28th June, 1828.

SIR,

In reply to your letter of yesterday, respecting my opinion as to your opening the mail-bag, &c., I have only to repeat the same opinion that I have formerly done, that I considered the charges *frivolous and vexatious*, and that they were brought by Mr. Mackay against you from pique, and not from any wish to benefit the public service; and were I placed in the same situation as you were in, I should have acted in the same manner. This opinion I stated from the bench at the time of the investigation; for, had I thought otherwise, *I had no alternative, as a magistrate, but to commit you.* I never officially wrote to Mr. M'Leay; but in the course of conversation I stated my opinion to him, the same as I now do to you, and have stated the same opinions to every person who spoke to me on the subject.

I have the honour to be, &c.

(Signed) ALEXANDER MACLEOD,
Justice of the Peace for the Colony of N. S. W.

Captain Robison,
N. S. W. Royal Vet. Comp.

No. 24.

GOVERNMENT ORDER, No. 35.

Colonial Secretary's Office, 19*th Oct.* 1827.

His Excellency the Governor has been pleased to make the following appointment: John Thomas Morisset, Esq., to act as principal superintendent of police.

By command of his Excellency,
ALEXANDER M'LEAY,
Colonial Secretary.

No. 25.

GENERAL ORDER, No. 40.

Sydney, 1*st April*, 1828.

Captain Donaldson, 57th regiment, and Captain Forbes, of the 39th, will hold themselves in readiness to proceed to Newcastle to-morrow, in the "Isabella," and will there conform to the instructions that will be given for their guidance by the Lieut.-General commanding the forces.

(Signed) CHARLES STURT,
Major of Brigade and Military Secretary.

Newcastle, 3*d April*, 1828.

SIR,

The Lieut.-General commanding having directed the assembly of a court of inquiry, of which Lieut.-Colonel Moriset is president, for the investigation of certain matters, of which you are already informed through the military secretary, I am directed to acquaint you, that the Court will assemble at Mr. Smith's house, at Newcastle, on Saturday morning, the 5th inst., when I am to request that you will attend to give such information as may be required of you.

I have the honour to be, &c.

(Signed) J. D. FORBES,
Captain 39*th Regt., Officiating Judge-Advocate.*

Captain Robison,
N. S. W. Royal Veterans, Newcastle.

No. 26.

Extracts from the Minutes of Cross Examination of the Soldiers of the New South Wales Royal Veteran Companies, brought forward by Lieut.-General Darling, as prosecutor, to prove his Charges against Captain Robison, before a General Court-Martial: taken from the original Minutes in the Judge-Advocate-General's Office, London.

Private Thomas Budd, cross-examined by Captain Robison, 15th July, 1828.

Q. Have you had any written communication or conversation with any person relative to me as your commanding officer?

A. Yes; I have had conversation, and wrote one letter to Captain Sturt, the military secretary and major of brigade.

Q. What conversation have you had, and with whom, and when?

A. I have had conversation with private John Murray. Mrs. Murray was in the house at the same time, and lance corporal Pragnell: as to the time, I cannot recollect. When I entered Murray's quarters, at Newcastle, I asked him if he had the copy of the letter he wrote to Captain Robison. Murray answered that he had; which I asked him to shew me, which he did. I looked at it. Murray asked what news there was from Sydney, and what I was called down for, or whether it was respecting my memorial or not? My answer, it was. And are you going to be discharged, or what? I said no, I believe it could not be done,—not a word about Captain Robison. *I told Murray I had been with the Governor*, and that I could not get my discharge at this present time, until an answer came out from England. Murray asked me if I had seen the Governor a second time; I said *I had, and was in company with him.* I had conversation with private Murray and corporal Pragnell; that is the *only* conversation I had at Newcastle in which Captain Robison's name was mentioned.

N.B. The answer to the foregoing question in the original minutes, deposited with the Judge-Advocate-General, London, was as follows: "with private Murray, and acting corporal Pragnell, the only way in which Captain Robison's name was mentioned, was in talking with them." All the remainder of this answer was left out in the original minutes sent to England from New South Wales.

Q. Did you not tell private J. Pragnell that you had seen the Governor, and spoken to him about me when you were in Sydney?

A. Yes; to the best of my knowledge I did.

Q. Did you state to privates Pragnell, Murray, or either of

them, you had been with the Governor three hours, speaking about me?

A. I did tell Pragnell so, but don't recollect telling Murray so. I recollect Murray asking; but I cannot say as to the exact answer I might have given.

Q. Did you state that the Governor had made any promises to you relative to me, or about getting your discharge?

A. I did, to the best of my knowledge.

Q. You said something about conditions: what did you mean about temporary conditions, upon which you were to have your discharge?

A. My meaning was, that I was to be discharged, but not to be free from the army until an order came out from England for my pension.

16*th July*.—*Q*. Have any promises been made to you respecting your evidence against me upon this court-martial; and have you never said there were to some of the Veterans at Newcastle?

A. No; but I might have said so to some of the Veterans at Newcastle; but with whom, or to whom, I do not know.

Q. Do you know Bridget Murray, and did you ever tell her the Governor had made you sit down in his presence for three hours; and say to her "by J——s, its all right, its all over with him" (meaning me)?

A. I knew Mrs. Murray. I might have told her I was in the presence of his Excellency the Governor; but such words as those I never said.

Q. If you might have said you had been in company with the Governor, and if you did, what was your motive for saying so?

A. Respecting my discharge, as I had before told her that *I was promised by his Excellency the Governor my discharge;* this was the cause of the conversation.

Q. Did you see the private or military secretary at government house, or elsewhere?

A. I saw them both at the quarters of Captain Sturt, the military secretary to General Darling.

Q. Did you understand from Captain Sturt, or Lieutenant Condamine (the private secretary, and A. D. C.), that you would be called upon to give evidence against me?

A. Yes; I supposed nothing else.

Q. How long were you with Lieutenant Condamine and Captain Sturt?

A. Probably about three quarters of an hour.

Q. Do I understand that your memorial was the *only* correspondence you had with Captain Sturt, Lieutenant Condamine, or General Darling?

A. The memorial was the *only* correspondence.

Q. Was not some correspondence produced at the court of inquiry at Newcastle, which correspondence was stated to be yours?

A. Not to my knowledge; no further than what I stated to Captain Sturt was taken down in writing.

Q. Who took it down in writing?

A. Captain Sturt.

Q. Then you mean to swear you wrote no more than your memorial, that was produced on the court of inquiry?

A. Nothing more, further than I have before stated.*

Private William Crutchley, New South Wales Royal Veteran Company, cross-examined by Captain Robison. 16th July, 1828.

Q. Do you not recollect private Budd being ordered from Newcastle to Sydney, and that on his return (with the court of inquiry) he boasted that he had seen the Governor, and that it was all right, and that it was all over with me?

A. He did. I do. He told me so himself, and a number of others, that he had been with the Governor and brigade major four or five hours. I heard him say it was all right, it was all over with him, Captain Robison.

Q. By the Court. When Budd said that the men who came forward on this trial would get their discharges; did you understand him to mean the whole of the Veterans would be discharged, or only those who were witnesses?

A. Only the men who came forward at the trial would get their discharges.

Q. By the Court. Was Budd sober at the time?

A. Yes, he was.

Private Charles Faunt, New South Wales Veterans, cross-examined by Captain Robison. 18th July, 1828.

Q. Has not private Budd had conversations with you upon the subject of this court-martial; if so, when did it take place, where, and what was the purport of it?

A. He had, in the first week in May. He told me he had a conversation with the brigade major, and gave him some information relative to Captain Robison's affairs; and that he (Budd)

* Captain Forbes, 39th regiment, the Deputy Judge-Advocate, *must have known* this was *false*, as he produced from General Darling a long statement in Budd's own hand-writing, before the military court of inquiry at Newcastle, of which Captain Forbes was a member, as well as officiating Judge-Advocate, and Lieut.-Colonel Morisset, President; and Captain Forbes took down the whole evidence with *his own hand.*

further told me, that he (the brigade major) gave him a chair to sit down; and that he told him he should be well provided for hereafter; and that if I joined him in the same I should receive a like indulgence, and be well done for hereafter; and that he (Budd) would be provided for *at the present*, but *that it would be rather remarkable that any thing should be done before Captain Robison's court-martial would take place, lest any notice should be taken of it.*

Q. Did you not understand Budd to mean, in the conversation he had with Captain Sturt, the brigade-major, upon my affairs, that he was giving charges or complaints against me, and that if you did the same you would be provided for?

A. I did.

Q. By the Court. Did you believe Budd when he said that he would be benefited by the advantages held out to him by coming forward in prosecuting Captain Robison, and that you would also by joining him?

A. I really did believe him as to himself, but I did not as to me.

Lieut. James Sweeny, New South Wales Veterans, cross-examined by Captain Robison, 19th July, 1828.

Q. Did you not receive an order from the military secretary (Captain Sturt) to send Budd to head-quarters from Newcastle, without its stating what he was sent for?

A. Yes, I did.

Q. Did you not hear Budd say if I neglected to forward his complaint and obtain redress for him, he would himself memorialise the Commander-in-chief, meaning in England?

A. I did.

Q. Did I not tell him in reply, that I would transmit his memorial to the Governor, and at the same time say, that all his, the Governor's, orders must be obeyed?

A. You did.

Q. Did not Budd do all in his power to excite the men to be discontented, and refuse to do their duty at Newcastle?

A. He did; the men were discontented by his means.

Sergeant John Staples, New South Wales Veterans, cross-examined by Captain Robison, 21st July, 1828.

Q. Did you not hear private Budd declare, on going into the hospital at Newcastle, that he would remain there until he was returned to Sydney, for that he would do no more garrison duty, and that those that did were "*damned fools?*"

A. I did hear Budd make use of words to that effect.

Q. Did not the men of the Veterans most seriously complain and object to the hardships of being sent in open boats by sea to

Portstephen from Newcastle with their families, and have you not known them to have been at sea on this passage several days and nights?

A. I have known several of the Veterans complain of it: I have known single men go by land in preference. I *knew a boat containing one man, one woman, and children, at sea buffeting about a week before they could reach Port Stephen.*

Q. Did you never hear the men of the Veterans who were employed as superintendents and overseers of convicts, complain of their being obliged on such duties to sleep and mess with such convicts in their huts?

A. Yes, I have heard these complaints made.

(By the Court.) Did you not suppose the men of the Veterans were to perform all military duty in the colony, in common with the other soldiers of the line stationed there?

A. I always considered the men of the Veterans were liable to act as military in case of emergency *only*, but never considered they were to do it permanently, they having been already discharged as unfit for it.

Colonial Assistant-Surgeon Brooks, cross-examined by Captain Robison, 23d July, 1828.

Q. Were you not the Colonial Assistant-Surgeon in medical charge of the Veterans during the whole period I commanded at Newcastle?

A. Yes, I was.

Q. You have stated that you received two different orders from me to attend parades in your medical capacity, and you *refused* to do so, in the month of October or November last, whilst I commanded at Newcastle; did Lieut.-General Darling approve or sanction this disobedience of orders on your part?

A. The Lieut.-General *approved* of my conduct.

Q. Are you not a magistrate and justice of the peace for this colony, and have you not sat as a magistrate on the bench at Newcastle, with Lieut. Robertson of the 57th regiment, whilst I was officer commanding there?

A. Yes.

Q. Did you not receive an intimation or order to sit on the bench as a justice of the peace to examine and take depositions relative to a complaint made of me by the superintendent of convicts, Mr. Mackay, at Newcastle, to General Darling, for opening the mail-bag or ordering the mail-bag to be opened?

A. I did *not.*

Now, I pray the reader to contrast the last question and answer with the following examination and letter from the Colonial Secretary to the Superintendent of Police, Mr. Wright, at Newcastle, and they will be enabled to form a judgment of the

species of evidence *I was convicted upon*, as well as the conduct of the court, and my prosecutor, Lieut.-General Darling, in *not* taking any notice of it?

Alexander M'Leay, Esq. Colonial Secretary, cross-examined by Captain Robison, he being a witness for the Prosecution on 16th August, 1828.

Q. Did you not write two letters of the 21st March and 2d April, of which the accompanying are copies, to Mr. Wright, the Superintendent of Police at Newcastle, ordering him to investigate and report upon the superintendent's charge against me, for having ordered my sergeant to open the mail-bag in his, Mr. Mackay, the superintendent's absence, and did you not write me under date 26th March, stating I should be called on to appear before the magistrates to answer this charge?

A. I certainly wrote the letters of which these are copies; but it was not to inquire into the circumstance of Captain Robison's having ordered a sergeant to open the mail-bag, but, if I mistake not, the complaint was of Captain Robison's having opened it. I desired the Superintendent of Police, Mr. Wright, to investigate and report upon this, with the assistance of another magistrate. I believe I wrote on the 26th March to Captain Robison, stating that he would be called on to appear before the magistrates to answer this charge.

No. 28—246.

Colonial Secretary's Office, Sydney, 2d April, 1828.

SIR,

I have had the honour to receive and submit to the Governor your letter of the 25th ultimo, stating that Captain Robison had expressed his inability to enter upon the case of the mail-bag opened by him, during the absence of a material witness, *and also that Mr. Brooks is desirous that another magistrate may be appointed in his room to assist you in this investigation.*

In reply, I am directed by his Excellency the Governor to acquaint you, that sergeant Staples, the witness alluded to by Captain Robison, now returns to Newcastle by the Isabella, *and that there will be no objection to a compliance with Mr. Brooks's request*, excepting, of course, Lieut. Robertson, 57th regiment, as before communicated to you.

I have the honour to be, &c.

(Signed) ALEX. M'LEAY,

Colonial Secretary.

Samuel Wright, Esq.

Justice of the Peace, Superintendent of Police,

Newcastle.

Well might the Colonial and Military Secretary refuse to allow me any further copies of correspondence from their offices, when I applied for them on my trial, after having given one which so decidedly impugned the testimony of one of the prosecutor's chief witnesses.

Refusal of the Colonial Secretary, addressed to the Court-Martial, on my application for Copies of Correspondence in his Office, through the Deputy Judge-Advocate, which would materially tend to exculpate me from the Charges, as well as shew the conduct of my Prosecutor, and my Protest.

With reference to Captain Robison's memorandum of the 9th instant, the Colonial Secretary has written to inform the Deputy Judge-Advocate that there is no such letter in his office as that required by Captain Robison,* *and further, that no more copies of letters will be furnished from his office.*

(Signed) J. D. FORBES,
Captain 39th Regt. Deputy Judge-Advocate.

Court-Martial Room, Aug. 16th, 1828.

Captain Robison's Protest to the above.

MR. PRESIDENT AND GENTLEMEN,

It is with considerable pain I am again most reluctantly compelled to protest against the decision which this honourable court has allowed the Colonial and Military Secretary to intimate to me, through the Deputy Judge-Advocate, viz. that of refusing copies of public documents when applied for by me through this court, touching an official correspondence with those individuals connected with the present charges, as also the entry on the court's minutes of two letters, bearing date 21st of March and 2d of April, from the Colonial Secretary to the Superintendent of Police at Newcastle, Mr. Wright, whilst I was officer commanding upon that settlement, having immediate reference to the sixth charge.

I cannot but sensibly feel that my means of defence, as well as the elucidation of the truths of certain facts connected with these charges, has been seriously impeded by the court's overruling my putting the following questions to the present witness for the prosecution, the Hon. Alexander M'Leay, Esq. the Colonial Secretary :

Q. Did you not order a communication to be made to me in

* The letter that I applied for *was* in the Colonial Secretary's Office, but I had mistaken the *date* of it in my request through the court for a copy. R. R.

the month of March last year, whilst I was commandant of the Bathurst District, and did you not, or was there not from your office, enclosed in the accompanying envelope two letters which you, as Colonial Secretary, ordered me to forward with all despatch to their respective destinations, and did you not receive an official reply from me as commandant of the district, stating I had complied with your orders? if so, read it.

Q. Did you not receive a letter, or intimation, from Captain Wright, the Superintendent of Police, stating, that if he had been present at Newcastle when the mail-bag was opened on the 16th March last, as reported by the superintendent, Mr. Mackay, he would have committed me to prison, or words to that effect? and did he not (Mr. Wright) state, that Mr. Brooks, the Colonial Assistant-Surgeon at Newcastle, wished to decline as a magistrate sitting on this investigation of the charge against me?

I humbly request that these my present objections may, in this stage of the prosecution, be entered or coupled with this honourable court's minutes.

(Signed) R. ROBISON,

Capt. New South Wales R. V. Com.

August 16th, 1828.

After I had read my defence, and before I called my witnesses, the court was cleared, and I was informed by the Deputy Judge-Advocate, that the court cannot allow me to call witnesses to affect either Mr. Mackay's, Wright's, or other evidence brought forward against me for the prosecution, unless it can be proved they were guilty of perjury.

Court-Martial Room, 8th Sept. 1828.

Sydney Barracks, August 20, 1828.

SIR,

I give you, as near as I can recollect, the very words made use of by Budd in the conversation he had with me in the barracks last May, on the 18th day of that month. Amongst other things, he, private Thomas Budd, of your company, told me he had been for nearly four hours in the parlour with his Excellency the Governor, General Darling, at Government-house, Sydney, and that he (the Governor) had promised him that he would give him (Budd) a good situation up the country, as well as any other man of your company who would come forward and give their evidence against you at the approaching general court-martial, which, he said, would sit to try you. I then told Budd he was a damned, rascally villain, for

acting thus against his captain, who done all he could for the company, and got himself into trouble in seeing them get their rights; and that I would tell you of this conversation, which wanted me to perjure myself against you. Budd then threatened me if I did. So you may call upon me on the trial, and I will swear to what I now state.

I remain your most obedient servant at command,

THOS. WALSH.
Corporal 2d Co. N. S. W. R. V. Corps.

To Capt. Robison,
N. S. W. V. Corps, Sydney.

AFFIDAVIT — No. I.

I, William Pragnall, acting corporal of Captain and Brevet Lieut.-Colonel Dumaresq's company of the New South Wales Royal Veterans, do voluntarily make oath and saith, on the Holy Evangelist (Bible), that on or about the 3d or 4th day of April, 1828, in the settlement of Newcastle, in the colony of New South Wales, private Thomas Budd, of Captain Robison's company, New South Wales Royal Veterans, called at the house in which I reside. I, William Pragnall, accosted him (Thomas Budd) thus, "What, are you already returned from Sydney? how did you get on with your affair there?" meaning with regard to certain complaints or representations against Capt. Robison, which it was generally understood he (Thomas Budd) had made to the Governor, his Excellency Lieut.-General Darling, and for the purpose of being personally interrogated respecting them: it was also generally understood he (Thomas Budd) had been ordered to Sydney. He (Thomas Budd) replied, that he had got on very well; that he (Thomas Budd) had been with the Governor for nearly three hours, in presence of the brigade-major; and that if he (Thomas Budd) got through his job well, (meaning the establishing the statements he had made to the Governor against Captain Robison,) he (Thomas Budd) would get his discharge; but that he (Thomas Budd) did not consider such discharge to be a *final* one, but *conditional*, in order that he (Thomas Budd) might be relieved from any apprehension he might be under, by resuming his military duties under Captain Robison's command at Newcastle; adding, for then I (Thomas Budd) shall be clear of them all.

WILLIAM PRAGNALL.

Sworn before me at Newcastle, in the colony of New South Wales, this 14th day of April, 1828,

ALEX. MACLEOD, J. P.
Magistrate of the territory of N. S. Wales.

AFFIDAVIT — No. II.

I, Bridget Murray; do voluntarily make oath on the Holy Evangelist (Bible), and saith, that on or about the 3d day of April, 1828, in the settlement of Newcastle, in the colony of New South Wales, and in the presence of private John Murray, New South Wales Veterans, I heard the following expressions made use of, by private Thomas Budd, of Captain Robison's company, New South Wales Royal Veterans, to wit, that he, private Thomas Budd, said, By J—s, its all right; its all over with him (meaning Capt. Robison). I (Thomas Budd) was very lately in the room with his Excellency the Governor of New South Wales, Lieut.-Gen. Ralph Darling, at the Government-house, Sydney, for nearly three hours, in the presence of Captain Sturt, 39th regiment, the brigade major and military secretary, and others of his Excellency's staff, and that he (the Governor) made him (Thomas Budd) sit down in a chair. He (the Governor) told me (Thomas Budd) he would provide for me, or any other soldier of Captain Robison's company of the Royal Veterans who would enter into the prosecution against Captain Robison, or help to prosecute Captain Robison; and further, he (Thomas Budd) said in my (Bridget Murray's) presence, that he (Thomas Budd) had got a slight promise of a conditional discharge, but which he was not quite certain of until he (Thomas Budd) returned to Sydney, he being only sent up to give evidence against and prosecute Captain Robison before the military court of enquiry, then sent with him (Thomas Budd) to Newcastle, for the purpose of investigating Capt. Robison's whole conduct.

her
BRIDGET × MURRAY.
Mark.

Sworn before me at Newcastle, in the colony of New South Wales, this 12th day of April, 1828,
ALEX. MACLEOD, J. P.
Magistrate for the territory of N. S. Wales.

Witness,
JOHN STAPLES, *Sergeant.*
WM. WAGER.

Sydney, September 12, 1828.

SIR,

It having been just reported to me that the Veterans who had been called to head-quarters as evidence for the prosecution against me upon my trial, are ordered to embark to-morrow morning at seven o'clock for Newcastle, I have the honour to inform you, that it is my intention to prefer charges against private Thomas Budd of my company, (one of the witnesses on my trial,) for the infamous assertions he had

dared to propagate relative to his Excellency Lieut.-Gen. Darling, and his military secretary, Captain Sturt, 39th regiment, already taken in evidence on the minutes of the court, of which you are the president, and which I stated had been previously taken in affidavits by a magistrate at Newcastle. I now beg, in the absence of the Lieut.-General commanding, you will be pleased to order such steps as may seem to you necessary to retain this soldier here — more especially, as I find he has obtained a pass from Captain Sturt for some time to go into the interior. The following men of the Veterans I shall require as evidences to substantiate my charges against private Budd, viz. Corporal Thomas Welch, Pragnell and Murray, privates.

I have the honour to be, &c.

R. ROBISON,

Capt. New South Wales R. Vet.

Colonel Lindesay, C.B. 39th Regiment,
Commandant, Sydney.

(*Immediate.*)

Sydney, Sept. 15, 1828, 8 *o'clock, P.M.*

SIR,

I had the honour of addressing you an official letter, as president of the general court-martial then sitting, as well as commandant of this garrison, on Friday last the 12th instant.

I beg you will be pleased to inform me (having most anxiously waited your reply) whether you have received my letter; and, if so, what steps you have taken upon the subject contained in it.

I have the honour to be, sir,

Your most obedient servant,

R. ROBISON,

Capt. N. S. W. Roy. Vet. Corps.

Colonel Lindesay, C. B. 39th Foot,
Commandant, Garrison, Sydney.

N. B.—No written answer was returned to either of these letters; but Capt. Forbes, the deputy judge-advocate, informed me they had been sent to my prosecutor, the Lieut.-General commanding! This soldier Budd, in place of being punished for his assertions of the Governor and his staff having suborned him, had grants of land and other indulgences extended to him by Lieut.-General Darling!!

No. 26.*

GENERAL ORDER, No. 107.

Brigade Office, Sydney, June 4, 1829.

The following men of the New South Wales Royal Veteran companies will be marched to the Woolambi district, so as to arrive there on the 20th inst., where Captain Aubin of the 57th regiment, commanding the mounted police, will meet them, and see that a just distribution of their allotments of land and huts takes place, according to the rules prescribed for his guidance in a letter from the Brigade-office, dated 18th June, 1829.

Private Thomas Budd.

[Then here follow the names of a few other soldiers.]

GENERAL ORDER, No. 113.

Brigade Office, Sydney, July 15, 1829.

The men hereafter named, of the New South Wales Royal Veteran companies, located on the Woolambi, are to be discharged on the 24th inst.; from which date the pension affixed to their names will be issued in advance to the end of the quarter by the deputy commissary-general.

RANK AND NAMES.	Daily pension to be paid at present			Daily pension to which recommended		
	£.	*s.*	*d.*	£.	*s.*	*d.*
Private Thomas Budd	0	1	2	0	1	3
[A few other names follow.]						

By command,

(Signed) K. SNODGRASS, Lt.-Col.
Major of Brigade.

No. 27.

Sydney, May 23, 1828.

SIR,

I have received the Lieut.-General's commands to apprise you, that it is his intention to prefer charges against

you, in order to your trial by a general court-martial, as soon as the same can be conveniently assembled; and I am further desired to inform you, with a view to prevent your making any unnecessary applications in the mean time, that you will be duly furnished with a copy of the charges when prepared, and you will receive such further information as may be necessary in your case.

I have the honour to be, &c.

(Signed) CHAS. STURT,
Major of Brigade.

Captain Robison,
N. S. W. R. Veterans, Newcastle.

Sydney, June 14, 1828.

SIR,

Agreeably to the commands of the Lieut.-General, I am to desire that you will repair to Sydney by the first opportunity, preparatory to your trial before a general court-martial, as notified to you in my letter of the 23d ultimo.

I have the honour to be, &c.

(Signed) CHAS. STURT,
Major of Brigade.

Captain Robison,
N. S. W. R. Veterans, Newcastle.

Sydney, June 24, 1828.

SIR,

The Lieut.-General commanding having determined upon bringing you to trial before a general court-martial, I am to acquaint you that the said court will assemble in the officers' mess-room, 39th regiment, in Sydney barracks, at eleven o'clock in the forenoon, on Monday the 7th July, and that his Excellency has appointed Colonel Patrick Lindesay, C.B. of the 39th regiment, to be president of the same.

The names of the members of the court will be notified to you as soon as all the officers who are intended to sit on it have arrived at head-quarters.

I inclose a copy of the charges which are to be preferred against you; and have to request that you will, with as little delay as possible, furnish me with a list of such persons as you may wish to be officially summoned as witnesses on your defence.

I have the honour to be, &c.

(Signed) J. D. FORBES,
Capt. 39th Regt., appointed to officiate as Dep. Judge-Adv.

Capt. R. Robison,
N. S. W. Royal Veteran Corps.

Names of the Members of the General Court-Martial which tried Captain Robison, assembled July 11, 1828.	*Observations.*
PRESIDENT,	
Col. Patrick Lindesay, 39th Regt. .	Commandant of Sydney Garrison.
MEMBERS,	
Major Macpherson, 39th Regt.	Commandant of Bathurst District.
Captain Hunt, 57th Regt.	Immediately after the trial sent as Commandant to Port Macquarie, for which he received extra pay of upwards of 200*l*. per annum.
——— Welman, 57th Regt.	
——— Barnett, 40th Regt.	
——— Crotty, 39th Regt.	Had a government vessel sent express for *him* to a penal settlement where he commanded.
——— Bishop, 40th Regt.	Allowed to return to England immediately my trial was over.
——— Jackson, 57th Regt.	Deputy Judge-Advocate of his regiment.
Lieut. Wilford, Staff Corps	The Lieut. of one of the Governor's brother-in-law's company of the Royal Staff Corps, and allowed to return to England after the trial.
Captain J. D. Forbes, 39th Regt. *Acting Dep. Judge-Adv.*	Entered the army as an Ensign in 1823, and a *protégé* of Colonel Lindesay, the President, as well as brother officer of Capt. Sturt, the Military Secretary, for impugning whose conduct I was tried upon the 8th charge!

No. 28.

GENERAL ORDER, No. 99.

Sydney, September 15, 1828.

No. 1.—The general court-martial, held for the trial of Captain Robert Robison, of the Royal Veteran companies, of which Colonel Lindesay, 39th regiment, is president, having closed its proceedings, the minutes thereof will be transmitted by the earliest opportunity to the Judge-Advocate-General, in order that the same may be submitted to the King, conformably to his Majesty's commands.

No. 2.—The Lieut.-General is pleased to order that the

court-martial, of which Colonel Lindesay is president, be dissolved, and that the members return to their regimental duty.

No. 3.—The Lieut.-General is further pleased to direct that Lieut. Sweeny, of the Royal Veteran corps, who was a witness at the above court-martial, shall cease to do duty until his Majesty's commands shall be received on the subject of the above court-martial.

By command, &c.

(Signed) C. STURT,
A. M. Brigade.

Newcastle, Oct. 8, 1828.

SIR,

An extract from No. 99, General Order, of your Excellency, dated the 15th ult., and communicated to me on or about the 22d same month, through Lieut. Warner, commanding at this station, wherein it is directed that I shall "cease to do duty till his Majesty's commands shall be received," I having been a witness at the late general court-martial held for the trial of Captain Robison of the New South Wales Royal Veterans, and to which companies I stand appointed by his Majesty,—

I most earnestly and respectfully request your Excellency will be pleased to acquaint me with an explanation of the nature of the case which has induced your Excellency to issue an order calculated to place me under such unpleasant circumstances.

I should have addressed your Excellency much sooner on this subject, were it not in the full confidence that an explanation would have been offered me ere this.

I have the honour, &c.

(Signed) JAMES SWEENY,
Lieut. N. S. W. R. V. Corps.

His Excellency Lieut.-Gen. Darling, &c.

SIR,

The accompanying letter I have to request the favour of your laying before his Excellency the Lieut.-General commanding the forces, without loss of time, feeling anxious for an early reply.

I have the honour, &c.

(Signed) JAMES SWEENY.
Lieut. N. S. W. Veterans.

Captain Sturt, 39th Foot,
Major of Brigade.

N.B.—No reply was sent Lieut. Sweeny to this letter.

Brigade Office, Sydney, Jan. 23, 1829.

SIR,

The Lieut.-General commanding has directed me to acquaint you, that should you be desirous of returning to England, his Excellency is not aware of any objection to it. The usual allowance would of course be given on account of passage.

I have the honour, &c.

(Signed) H. SNODGRASS,
Lt.-Col., Maj. of Brigade

Lieut. Sweeny,
Royal Veterans, Newcastle.

Newcastle, Jan. 26, 1829.

SIR,

I have the honour to acknowledge the receipt of your letter of the 23d inst., and beg leave to state, that I would be most happy to avail myself of his Excellency's permission to return to England, provided a passage is allowed for myself and family.

I have the honour, &c.

(Signed) JAMES SWEENY.
Lieut. N. S. Wales Veterans.

Lieut.-Col. Snodgrass, C. B.
Maj. of Brigade, Sydney.

GENERAL ORDER, No. 57.

Sydney, April 23, 1829.

1.—The Lieutenant-General has been pleased to grant Lieut. Sweeny, of the Royal Veteran corps, leave to return to England, the company to which he belongs being about to be disbanded.

2.—Lieut. Sweeny is to receive six months' pay in advance from the 25th inst.; and the deputy commissary-general will issue the allowance to which Lieut. Sweeny is entitled by regulations, on account of his passage and messing on board ship.

By command,

(Signed) K. SNODGRASS.
Major of Brigade.

King Street, Sydney, March 24, 1829.

SIR,

With due deference to your Excellency, allow me to request, before I leave the colony, what are the charges upon which I have been suspended from duty since last September.

I have the honour to be, &c.

(Signed) JAMES SWEENY.
Lieut. N. S. Wales Veterans.

His Excellency Lieut.-Gen. Darling, &c.

Brigade Office, Sydney, March 27, 1829.

SIR,

I have been directed, by the Lieut.-General commanding the forces in this colony, to reply to your letter of the 24th inst., by stating, that the order for your suspension from military duty was in consequence of the nature of your evidence before the general court-martial held for the trial of Capt. Robison, and of which the General commanding-in-chief will have the means of judging when he receives the proceedings of that court-martial.

I have the honour, &c.

K. SNODGRASS,
Major of Brigade.

Lieut. Sweeny,
Royal Vet. Corps, Sydney.

N.B.—Almost immediately after Lieut. Sweeny's arrival in England, he was appointed by the General commanding in chief, Lord Hill, to full pay in a regiment of the line. But how is it that Lieut.-General Darling was allowed to send an officer home suspended (charges hanging over his head), contrary to the regulations of the service, which particularly enjoin that all complaints or charges against an officer should be inquired into upon the spot where they occurred? It appears General Darling can do just as he pleases with the officers and soldiers of the Veterans!

No. 29.

MEMORANDUM.

(Copy.)

It being intended to discharge part of the men of the Royal Veteran companies, the following indulgences will be granted to such as are desirous of settling on farms in the country:

1.—Each man will be allowed from forty to one hundred acres of land, according to the quality of the soil or the situation in which he may be required to settle, on his entering into a bond that he will reside on and cultivate his land for a period of seven years, on pain of forfeiture.

2.—He will be furnished with the necessary implements of husbandry.

3.—If married, he will receive a cow from the goverment herds, on taking possession of his land; and a second cow at any time within three years, when he shall have cleared and stumped ten acres.

4.—Each man will be allowed the usual ration (spirits excepted) for himself and family, for twelve months from the date of his discharge, to be issued at or in the neighbourhood of his farm; the ration to be forfeited if he or his family absent himself or themselves from the farm.

5.—A log hut will be put up for the accommodation of such men as are married.

6.—It is intended that those men should be located in different parts of the country, in small bodies, about six in number, as soon as eligible situations have been determined on; and it is desirable that the individuals should be of different trades, as being more likely to prove generally useful to the colony, and to afford them an opportunity of providing comfortably for themselves and families.

(Signed) R. DARLING.

13th January, 1829.

Colonial Secretary's Office, Sydney, *15th Feb.* 1830.

The Colonial Secretary notifies to the Deputy-Commissary-General, for the information of the New South Wales Royal Veteran company's officers who have been disbanded, the following indulgences, which the Governor has been pleased to extend to them; and the Deputy-Commissary-General will issue the rations and implements of husbandry to the disbanded officers as they are notified.

SUBALTERN OFFICERS.

1.—Two square miles of land, free of quit-rent.

2.—Rations for themselves, their wives, and children, for twelve months from date of disbandment, together with rations and clothing for convict servants for the same period.

3.—Two convict mechanics, for six months from time of taking possession of land, to assist in erecting their house,

4.—Six cows from the government herd, and the following implements of husbandry, viz.—4 felling-axes, 6 pick-axes, 1 grindstone, 1 mattock, 6 hoes, 6 spades, 3 shovels, 2 wheel-barrows, 3 hammers, 10,000 batten, shingle, and floor-nails, 1 steel mill.

If officers fail to become resident within three months on the land selected, they forfeit claim to all the above indulgences, and also the land itself; and further, should they not be actually resident on land to be granted to them under this regulation, within three years from the date of their disbandment, any land which they may have selected subsequent to the forfeiture of the other indulgences will not be confirmed by grant.

(Signed) ALEXANDER M'LEAY,
Colonial Secretary.

CAPTAINS.

The only one in New South Wales (excepting myself) was the Governor's brother-in-law, who, whilst on the full pay, received a free grant of upwards of three thousand acres, in the best part of the colony, with leave to purchase several thousands adjoining at a small value; besides extensive town grants in Sydney, worth some thousands of pounds, if it has been confirmed; and he is one of the largest stock proprietors in the colony. What number of convict servants and mechanics he has is not known; but one of the most superb houses in the colony had been erected at his grant, on the River Hunter.

Independently of the above, Lieutenant-Colonel Dumaresq, and Lieutenant Condamine, 57th regiment, the aid-de-camp and secretary of General Darling, had extensive mercantile remittances made to them from the Isle of France and Scotland, consisting of wines, pictures, sugars, and rupees; the latter having realised an enormous profit in the colony by their being put into circulation far above their real worth, as it was subsequently found when the government put a fixed price upon them. But this valuation did not take place until all the Lieutenant-Colonel's rupees had been circulated.

No. 173.

Military Secretary's Office, Sydney, 26th March, 1831.

SIR,

I am directed to acquaint you, in reply to your letter of the 24th inst., addressed to the Lieut.-General, that he cannot consider you as having a claim to land; and

that it is not in his power to permit of your returning to England under present circumstances.

I have the honour to be, sir,
Your most obedient humble servant,

T. DE LA CONDAMINE,
Lieutenant and Military Secretary.

Captain Robison,
Royal Veteran Companies.

No. 30.

GOVERNMENT ORDER.

Colonial Secretary's Office, 7th May, 1827.

His Excellency the Governor has been pleased to make the following appointment, until his Majesty's pleasure shall be known :

Samuel North, Esq. to be keeper of the bonded store, in the department of the Customs.

GENERAL ORDER.

Brigade Office, Sydney, 18th May, 1827.

The Lieut.-General has been pleased to dispense with Lieut. North, of the Royal Veteran companies, performing military duties; and also

GENERAL ORDER.

15th August, 1827.

Lieut. North, of the Royal Veteran companies, having been appointed to the civil department, is relieved from his military duties. Lieut. Bell will receive the accounts, and assume the command of Brevet Lieut.-Colonel Dumaresq's company from that officer.

No. 31.

GOVERNMENT ORDER.

Colonial Secretary's Office, 5th June, 1827.

(No. 23.)

His Excellency the Governor has been pleased to appoint Mr. Andrew Gibson, assistant-surgeon of the Royal Veteran companies, to be an assistant-surgeon on the civil establishment of the colony, until the pleasure of his Majesty shall be known. The appointment to bear date the 24th of May last.

By his Excellency's command,

ALEXANDER M'LEAY.

GENERAL ORDER, No. 54.

25th May, 1827.

Assistant-Surgeon Gibson, Royal Veteran companies, having been attached to the civil service, the assistant-surgeon 39th regiment will take the medical charge of the Veterans until further orders.

GENERAL ORDER, No. 24.

25th February, 1829.

1.—The Lieut.-General is pleased to signify, in reference to the orders he has received relative to the disbandment of the companies of Royal Veterans, that the services of Lieut. North and Assistant-Surgeon Gibson will be dispensed with from this date.

2.—These officers are to receive an advance of pay to the 24th of April next, from which date they will be placed on half-pay.

By command, &c.

(Signed) K. SNODGRASS,
Major of Brigade.

No. 32.

Horse Guards, February 11, 1831.

SIR,

I take the earliest opportunity in my power to acknowledge your letter of the 1st instant, with a memorial from Mr. Robison, late Captain in the New South Wales Royal Veteran Battalion, in which that gentleman has solicited that his case may be again referred to the Judge-Advocate-General for further investigation.

As the best mode of explaining to you the exact position in which this business now stands, I transmit for your information a copy of the letter which I last addressed to Mr. Robison, and by which you will perceive that his case has been more than once under my consideration, and that I cannot take upon myself to recommend any further investigation of it.

I have the honour to be, sir,

Your most obedient humble servant,

The Right Hon. Sir James Mackintosh, HILL.
&c. &c. &c.

(*Copy referred to by Lord Hill.*)

Horse Guards, 24*th Dec.* 1830.

SIR,

I have to acknowledge the receipt of your several communications as follows, viz. memorandum of your services, dated Sept. 30th; your letter to Sir Herbert Taylor, dated Oct. 9th, in which you have expressed your hope that you may be placed on half-pay; and your letter to me, dated Oct. 19, in which you have requested that I would draw the circumstances of your case, as mentioned in your memorandum of the 1st instant (presumed to be that dated Sept. 30), as speedily as convenient to the favorable consideration of Lord Hill.

I have not failed to submit the whole of these communications to the General Commanding-in-chief, who also had before him all the papers connected with the proceedings of the general court-martial before which your conduct was investigated, together with its judgment and sentence.

Lord Hill has likewise read with great concern the representations you have made of your personal privations and sufferings, all of which, however, should seem to have resulted from that course of conduct which has been the subject of judicial investigation, and of the sentence which has in consequence been passed; and his lordship having again considered the whole

subject with the most patient attention, I have it in command to express his regret that it is not in his power, consistently with his sense of duty, and with a proper regard to the character and discipline of the army, to hold out any prospect that he could recommend to his Majesty that you should either be placed on half-pay or re-admitted into his military service.

I have, &c.

(Signed) FITZROY SOMERSET.

R. Robison, Esq. &c. &c. &c.

Copy of a Petition, forwarded by Sir James Mackintosh, to the Right Hon. General Lord Hill, G.C.B., G.C.H., &c. &c. Commanding in chief His Majesty's Forces.

The humble Petition of Robert Robison, late a Captain in the New South Wales Royal Veteran Company,—

Sheweth,

That your petitioner was brought to trial before a general court-martial (after twenty-three years' service) at Sydney, in the colony of New South Wales, in the year 1828; his prosecutor being Lieut.-General Darling, the Governor and Commander of the Forces there.

That, upon some of the charges your petitioner was acquitted, but on some others, imputing breaches of military discipline or subordination (but not affecting his honour or moral character), your petitioner was convicted by the sentence of the court; which conviction has since been confirmed upon the report of the late Judge-Advocate-General.

That upon the sentence of the court-martial being made known to your petitioner, he immediately embarked from New South Wales for England, where he arrived but a few months since.

That your petitioner is advised that the proceedings were irregular and defective, and contrary to the legal custom and practice of conducting courts-martial, more particularly in respect of your petitioner's having been prevented from cross-examining witnesses, and producing official correspondence which would have materially tended to his exculpation; and further, the court's not only rejecting your petitioner's questions to the prosecutor's and his own witnesses, but also in refusing to enter or keep any record of such questions on the minutes of its proceedings.

That since the sentence of the court was made known to your petitioner, the Chief Justice of New South Wales has informed your petitioner, in a communication in writing, (a

copy of which is in his possession, and ready to be produced, and the original of which is deposited with the Secretary of State for the Colonies,) that a certain letter of his (the Chief Justice's) to the Governor and Commander of the Forces, which had been brought forward by the prosecutor, and chiefly tended (as was alleged) to prove your petitioner guilty on some of the charges, ought not to have been received, as it had been by the court, as legal evidence; and that even if receivable, it by no means proved the fact which it had been supposed to establish.

That, under these circumstances, your petitioner submits that he has not had his case properly tried, and that the decision of the court-martial as to the justice and truth of the charges brought against him has not been fairly arrived at; and also, that the Judge-Advocate-General had not before him full and correct minutes of the whole proceedings, so as to enable him to form a proper judgment upon the case.

That your petitioner, therefore, most urgently and respectfully solicits, that your Lordship will be pleased to order that his case may be referred again to the Judge-Advocate-General for further investigation, and that your petitioner may be allowed to offer before him such evidence as he has in his power to produce of the truth of the above allegations, or that such other relief may be given as the nature of the case requires.

And your petitioner as in duty bound will ever pray.

January 24th, 1831. ROBERT ROBISON.

To the Right Hon. General Lord Hill, G. C. B., G. C. H., Commanding in chief His Majesty's Forces.

The humble Memorial of Robert Robison, late a Captain in the New South Wales Royal Veteran Companies,—

Sheweth,

That your memorialist entered the Royal Military College as a cadet on the 1st January, 1805, and after completing the course of studies was recommended, and received a commission in the 14th regiment foot, May 1807.

Your memorialist joined his regiment in the year 1807, and subsequently served, from the year 1809 to 1813, in Spain and Portugal, under his Grace the Duke of Wellington.

That your memorialist embarked as Adjutant with troops for Madras and Bengal, in May 1814, and served the Nepaul campaigns in the East Indies, at the conclusion of which your memorialist was ordered to Europe by a medical board for the recovery of his health.

That your memorialist was ordered, in the year 1818, as a guard over convicts to New South Wales, and from thence to India *via* Batavia, in command of troops; upon which occasion your memorialist was specially recommended to the then Commander-in-Chief, his late Royal Highness the Duke of York, and the Secretary of State for the Colonies, by the Governor, the late Major-General Macquarie.

That your memorialist was reduced to half-pay by the disbandment of his regiment, the 22d dragoons, in the year 1820, and appointed to the 4th Light Dragoons in 1821, with which regiment he embarked for Bombay in 1822.

That your memorialist was promoted by purchase, after having served upwards of sixteen years a subaltern, in the year 1823.

That your memorialist was appointed to and raised the New South Wales Royal Veteran Companies in 1825, which service was performed to the satisfaction of the Commander-in-Chief and Secretary of State for the Colonies, as will appear by the accompanying copies of letters to the Governor of that colony.

That your memorialist embarked in command of these companies, and landed them and their numerous families (amounting to several hundreds) safely in New South Wales, in the latter end of the year 1826.

That your memorialist, for the first time during his long services, was so unfortunate as to incur the displeasure of the Governor and Commander of the Forces in New South Wales, and was brought by his Excellency, in the year 1828, to a general court-martial upon eight charges, upon some of which your memorialist was found "guilty," and sentenced to be "dismissed" the service.

That your memorialist was detained in arrest in a most severe state of suffering as well to his family as himself, with his allowances stopped for upwards of two years, before the sentence was made known from England; and being refused a grant of land in the colony, (as was given to all the other officers and soldiers of the New South Wales Veterans,) was compelled to return to England at a ruinous expense, with a sickly family, having lost his only child by death, and expended the whole of his small property in the service of his country.

That your memorialist, immediately upon his landing, lost no time in making an earnest appeal through the military secretary to your Lordship, with a hope of getting a revision of his case, and being either placed upon half-pay or restored to the service.

That your memorialist has waited with the most intense anxiety for the last three months the result, which being now

made known, unhappily has left your memorialist no longer hope.

That your memorialist ventures, as a last appeal, to beg that his long, and, he trusts, honourable services for upwards of twenty-three years (previous to his trial), together with the severe measure of punishment he has, in addition to the sentence of the court-martial, already experienced in New South Wales, may so far operate in his behalf, as to induce your Lordship to recommend your memorialist (who, with his family, are left in a state of complete destitution,) to the mercy of his sovereign to grant him the sales of his commissions.

Finally, your memorialist concludes by stating, that he is the only surviving son of the late Colonel Robison, Royal Artillery, and has lost his father, four brothers, and two nephews, in the military service of their country.

Memorialist's last brother died a lieut.-colonel in the army (24th regiment foot), and a companion of the Bath, on his passage from India, and left his family, as well as his other brother's children, for memorialist to provide for, as (although the lieut.-colonel's commissions were purchased) none of them were ever sold for the benefit of his family.

All which is most humbly and respectfully submitted.

And your memorialist as in duty bound will ever pray.

London. R. ROBISON.

THE END.

LONDON:
J. MOYES, TOOK'S COURT, CHANCERY LANE.

PROCEEDINGS

OF A

GENERAL COURT-MARTIAL

HELD AT

Bangalore,

ON THE

TRIAL,

OF

LIEUT. COLONEL JOHN BELL,

OF THE MADRAS ARTILLERY.

CALCUTTA:

PRINTED BY A. G. BALFOUR FOR [illegible] AND COMPANY.

1810.

TRIAL

OF

LIEUT.-COLONEL JOHN BELL.

At A GENERAL COURT MARTIAL, held in Bangalore, on the 1st day of November, in the year of our Lord 1809, by virtue of a Warrant from Major General GOWDIE, Commanding in Chief the Forces serving under the Presidency of Fort St. George.

PRESIDENT.

Major General WARDE, H. M. 1st Foot Guards.

MEMBERS.

Lt. Col. Strange, 12th Regt. N. I.
——— Lang, 11th Regt. N. I.
——— Webber, 7th Regt. N. I.
——— Ogg, 15th Regt. N. I.
——— M'Leod, H. M. 69th
——— Wilson, 5th Regt. N. I.
——— Skinner, H. M. 56th.
——— Lockhart, H. M. 30th.
——— Bowness, 25th Regt. N. I.
——— Adams, H. M. 24th L. D.
——— Fletcher, 21st Regt. N. I.
——— Clarges, H. M. 69th.
Major M'Leod, H. M. 69th.
——— Colebrooke, 8th Regt. N. I.
——— Carden, H. M. 25th.
——— Maxwell, H. M. 30th.
——— Grant, 24th Regt. N. I.
Lieut. Ormsby, *Judge Advocate*.

The General Orders of the 30th September, directing the General Court Martial to assemble on the 20th of October, and those of the 15th October, postponing it till the 1st of November, are read.

The Court being assembled, agreable to the General Orders of the 15th October, the warrants constituting their authority are read.

Lieutenant-Colonel John Bell of the Madras Artillery, a Prisoner, being brought into Court, the names of the President and Members are first read over to him, and he is asked the following questions.

Judge Advocate. Do you object to any of the Members composing the Court, by which you are about to be tried?

Answer. I object to *Lieutenant-Colonel Adams*, for the following reasons.

In the first place, that Officer is summoned as a material Witness on the part of the prosecution.—It is not contended, that, where a question of fact incidentally arises on a trial, which lies within the knowledge of one of the Members of the Court, that the mere circumstance of his being a Member, disqualifies him from being a Witness. But this rule cannot be extended to principal or leading witnesses, without infinite inconvenience. Rendering all homage to the impartiality and honor of Lieutenant-Colonel Adams, yet being a Witness, of whose testimony the credibility is to be determined by the greater or less degree of corroboration, it receives from other Witnesses on the part of the prosecution, there must, from the infirmity of the human mind, be a slight bias in his feelings, that may incline him to believe the evidence which supports his own, rather than that which controverts or contradicts it.—In the second place, the Prisoner proposes his objection to Lieutenant-Colonel Adams, on the ground of his having been actively employed, in the unhappy affair of the 11th of August, and this objection, he proposes, rather as an appeal to the delicacy of that Officer, than as any doubt of his honour and his rectitude.—If Lieutenant-Colonel Adams does not admit the force of it, the Prisoner consents to withdraw it.

The Court is cleared.

The Court having considered the above objection, have admitted the validity of it, and, on its being opened, Lieutenant-Colonel Adams is directed to withdraw.

Judge Advocate. Do you object to any other Member?

Answer. I object to *Major Carden*, on the above grounds.

The Court is again closed; and, on taking into consideration the objection, are of opinion, that the grounds

are sufficient, and the Court being opened, Major Carden is directed to withdraw.

The Prisoner declining any further challenge,

The President, Members and Deputy Judge Advocate, are duly sworn, agreable to the rules and articles of War, for the better government of the Honorable Company's Forces.

In consequence of three Members, Lieutenant-Colonel Wilson, Majors Maxwell and Grant, not being present, the Court think proper to adjourn till Monday morning, the 6th of November, at 10 o'clock.

MONDAY, THE 6th DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

All Members present, as on the 1st of the month, as well as Lieutenant-Colonel Wilson and Major Grant.

The Prisoner is asked whether he has any objection to *Lieutenant-Colonel Wilson, and Major Grant*, sitting as Members of his Court Martial, to which he replies, he has not.

Those two Members are accordingly sworn.

The *Court is cleared*; and, on being opened, the following is recorded.

The Judge Advocate having stated it to be his opinion, that the Court is not competent to proceed upon the trial until the whole of the Members shall be present, and Major Maxwell a Member not being arrived, and no account having been received of the cause of Major Maxwell's absence, the Court adjourns till Thursday next, the 9th of November, at 10 o'clock.

THURSDAY, THE 9TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present, as on the last day.

The Judge Advocate informs the Court, that Major Maxwell is not yet arrived.

The *Court is cleared*;—and, the Court having considered the objection as made on a former day by the Judge Advocate, have determined, that, as Major Maxwell has not arrived, and in consideration of the situation of the Pri-

soner, to overrule that opinion, and to proceed upon the trial.

The Court is opened, and the above read to the Prisoner.

CHARGE. *Lieutenant-Colonel John Bell, of the Madras Artillery, and late Commanding the Fort and Garrison of Seringapatam, charged by the Officer Commanding the Army, with having, in subversion of all good order and Military discipline, and in violation of the Rules and Articles of War, for the better Government of the Company's Forces, joined in, and headed a most dangerous and alarming Mutiny and Sedition, which took place in the said Garrison, on and betwixt the 30th day of July last, and 23d of August following; during which period, the Garrison fired on the Troops of His Majesty and those of the Company, and their Ally the Rajah of Mysore, and seized on the Public Treasury; and he, Lieut. Col. John Bell, declared his resolution, not to deliver up the Fort and Garrison to the proper authorities.*

By order of Major-General Gowdie, Commanding the Army.

(Signed) T. H. S. CONWAY,
Adj. Gen. of the Army.

Fort St. George,
October 9, 1809.

Judge Advocate. How say you, Lieut. Colonel John Bell, are you Guilty or Not Guilty?

Answer. Not Guilty.

The *Deputy Judge Advocate* opens the prosecution.

MR. PRESIDENT, AND GENTLEMEN OF THE COURT MARTIAL:

You are now met to investigate into charges of a nat re, which, if we consider the rank and character of the parties implicated, are the most unprecedented and extraordinary that ever came before a military tribunal in this country. The events connected with these charges are too recent, to require a statement, that will take up much of your time at this early stage of the proceedings. Gentlemen, the charge against the Prisoner is for joining in, and heading a most dangerous and alarming Mutiny and Sedition within the Garrison of Seringapatam, and it becomes my duty to state

in a few words, the nature of that Mutiny. For some time previous to the date specified in the charges, a spirit of combination against the constituted authorities of the Government of Fort St. George, existed throughout the Army of this Presidency. At length, measures of open defiance and resistance to orders of the simplest military arrangement were adopted; when it became an object for the Government, to ascertain what Officers were uncontaminated by the too general spirit of disobedience which had been manifested, and the Honorable the Governor in Council directed a certain test or pledge of obedience to be presented by Officers Commanding Divisions, to the several Officers under their command; and, in case of refusal, the Officers were to retire from their military functions,—thus leaving it optional, whether they would act up to the letter of their commissions, or secede from the performance of military duties, on the pay of their respective ranks.—Agreable to the above instructions, Lieutenant-Colonel Davis, the Officer Commanding the troops in Mysore, on the 29th of July, repaired to the Fort of Seringapatam, the Garrison of which consisted, I understand, of 120 rank and file of H. M. 80th Regiment, a large proportion of Artillery, the 2d Battalion 15th Regiment commanded by Lieutenant-Colonel Robert Munro, the 2d Battalion 19th Regiment commanded by Major D. C. Kenny, several staff Officers, and the prisoner Lieut. Colonel Bell, who was senior Officer of the whole.—On the morning of the 30th, Lieutenant-Colonel Davis directed the Assistant Adjutant General, to order Lieutenant-Colonel Bell, to assemble the Officers of the Garrison, and wait upon him immediately.—You will hear, Gentlemen, from the Assistant Adjutant General, whether that prompt obedience, which should mark the conduct of an Officer in every situation, but more especially in that of the Prisoner, was paid to this order.—I rather imagine, you will be told, that the Prisoner disobeyed that order, as well as the Officers of one Battalion, the 2d Battalion 19th Regiment.—However, a number were assembled, and the orders of Government read to them. Instead of an acquiescence with the terms contained in those orders, a resolution was formed of detaining Lieutenant-Colonel Davis, as a prisoner, and this

was soon carried into effect—The particulars of what occurred on this occasion, will be fully explained by several respectable evidences, and from this period may be dated the existence of a Mutiny among the troops in that Garrison, which lasted till the 23d of August; and it will be your province, Gentlemen, to determine, from the facts which I shall lay before you, whether the Prisoner did, at any time within those dates, join in, or head that Mutiny. —On the 31st, Lieutenant-Colonel Davis addressed a letter to Lieutenant-Colonel Bell, enclosing the test for the Officers' acceptance and signature; the enclosure was taken out, and the letter returned, without the seal having been broke,—the prisoner, as will appear by his own note, declining to open any public communication.—On the night of the 1st of August, a detail, consisting of near 300 men and 2 guns, was detached from the fort, for the purpose of seizing a supply of 30,000 Pagodas of money, on its route to the Paymaster from the Ceded Provinces, in which they succeeded. The Paymaster's Treasure in the Fort, about 11,000 Pagodas, had also, in the course of the preceding day, been forcibly seized on, agreable to the orders of Lieutenant-Colonel Bell, as will appear by a letter addressed to the Paymaster, Mr. Smith, who will be called to substantiate this fact. And I shall call other Witnesses as well as Mr. Smith, to several circumstances of a mutinous nature; who will shew, how far the Prisoner was implicated, at the commencement of these extraordinary proceedings.—On the 2d of August, 500 men, with a proportion of Artillery, were detached to some distance into the Mysore Country, for the purpose, as I understand, of meeting a force that was expected from Chittledroog; but, as they could hear no tidings of it, the detachment returned on the 4th to Seringapatam. Lieutenant Adamson, an Officer of H. M. 80th Regiment, who met them on their return, will appear before the Court, to speak to this point, as well as the circumstances connected with the march from the Fort of those men of the 80th Regiment, who formed a part of the Garrison, and the orders he received on the occasion. When the Officer Commanding in Mysore, and the acting British Resident, the Honorable Mr. Cole, heard, that measures, which they could not but consider, as insulting to their authority, as they were hostile to the Go-

vernment of the Country, had been adopted by the Officers of the Garrison, they conjointly addressed a letter to them, an authentic copy of which I shall lay before you, calling upon the Officers to accede to the terms of Government, which had been offered to them, and pointing out to those Officers, that, if they persevered, in such a system of hostility, the whole resources of the Mysore Government, and their united power, would be exerted to reduce them to a state of subordination to the legal and constituted authorities. This letter was addressed to Lieutenant-Colonel Bell and the Officers of the Garrison ; and, if I mistake not, it will appear in evidence, that the Prisoner read and knew the contents of it. On this day, the 3d of August, Lieutenant-Colonel Bell sent out to Lieutenant-Colonel Davis, the pledge of obedience to the Government of Fort St. George, (signed by himself,) which I shall produce, as well as a copy of Lieutenant-Colonel Davis's reply, expressive of the satisfaction he felt, on learning that the Prisoner retained a proper sense of the duty he owed to the Government under which he served. We shall see his subsequent conduct, whether he acted up to the solemn assurance he had thus given —On the 6th of August, he addressed a letter of a very extraordinary and mysterious nature to Lieutenant-Colonel Davis, in which he affects to consider the fortress of Seringapatam, as in danger from an attack by the Mysore Government, and that, as he was in possession of the Fort and Island, it became his duty to his King and Country, not to deliver them up, but to legal authority.—The Prisoner, at the same time he wrote the letter I have now alluded to, addressed one to Poornea, the Dewan, complaining of his preventing provisions from passing into Seringapatam, and cautioning him against a continuance of such proceedings. To this letter the Minister replied, by referring him to the British Resident, as the proper channel of communication with the Mysore Government. If the Prisoner had entertained any doubts as to the measures the Government of Mysore were adopting, and which had induced him to suppose, an attack was meditated by that power on the Fort of Seringapatam, they surely must have ceased, on the receipt of this letter from the Minister, as it plainly indicated that he was acting in concert with the British Resident, and consequently complying with the

instructions of the legal and established Government of the country. But, if the Prisoner really saw the letter of the 3d, addressed to himself and the Officers of the Garrison, he could not for a moment have doubted the intentions, with which those measures that he complained of, were adopted. On the 8th, Lieutenant-Colonel Bell addressed another letter to the Dewan, threatening to seize whatever property was in the Fort, belonging either to the Rajah or the Dewan, if the latter did not desist from a line of conduct, which the Prisoner thought insulting to the British Government and the Honorable Company; although the Minister was acting in concert with that very Government, for whose honor Lieutenant-Colonel Bell seemed so anxious, and, as a means of preserving that honor, was retaining forcible possession of a Fortress, which had but a few years since been rescued, at a great expence of blood and treasure, from the dominion of an implacable foe. The Prisoner also addressed a letter to Lieutenant-Colonel Davis, on that day, expressive of his determination to keep possession of the Fort, which, together with the former and the Dewan's reply thereto, I shall produce to the Court.— On the 9th, Lieutenant-Colonel Bell addressed a letter to the Right Honorable the Governor General, explanatory of his conduct, and forwarding copies of all the letters above alluded to. On the 10th, Lieutenant-Colonel Gibbs arrived in the vicinity of Seringapatam, with the 59th Regiment, 25th Light Dragoons, 5th Regiment Native Cavalry, and 1st Battalion 3d Regiment N. I; and took up a position near one of the principal fords, where he remained during tha day. On the morning of the 11th, Lieutenant-Colonel Gibbs received information, that two corps were approaching from Chittledroog towards the Fort; he immediately made his arrangements, to counteract their known object, of getting into the Fort; and part of the troops under his command were fired at by the Garrison. The circumstances, which followed on that day, within view of the Fortress, are so particularly detailed in Lieutenant-Colonel Bell's letter of the 12th, and others of a later date, addressed to the Right Honorable the Governor General, which will be hereafter laid before the Court, that I shall only now slightly advert to them. It will suffice to tell you, Gentlemen, that two Battalions of Native Infantry, in

concert with, it is presumed, the general plan of operations to be observed by the Garrison of Seringapatam, marched from Chittledroog for the purpose of getting into the former place; and, as it was a desirable object to prevent such an accession of strength being thrown into the Fort, the acting Resident at the Court of Mysore, directed the *Silledar* Horse of that Government to be sent in advance towards Chittledroog, with orders to oblige those corps to desist from their intention. The Officers commanding these Battalions, Captains M'Intosh and Aiskill, were early apprized, that they would meet with opposition, but nothing could induce them to return to their station; and, on their near approach to the Fort, the sword was drawn, and, dreadful to relate, the Troops of H. M., of the Honorable Company, and of their Ally the Rajah of Mysore, were forced to oppose those two Battalions; of whom many were killed and wounded, but the major part succeeded in their object. Lieutenant-Colonel Gibbs resumed his position; from whence, about half past 12 o'clock at night, he was obliged to move, in consequence of some shells being thrown into his Camp from the Fort. This latter act, which forms a principal feature of the charges against the Prisoner, will be fully established, not only by his own letter, addressed to the Governor General, acknowledging it, but by the testimony of several respectable Officers. On the 13th, a Flag of Truce was sent into the Fort, by Lieutenant-Colonel Davis, agreable to a request to that effect, made previously by the Officers in the Fort. Lieutenant Grove of H. M 80th Regiment, who carried the Flag of Truce, is the evidence I shall adduce, to substantiate whatever took place between him and Lieutenant-Colonel Bell. In consequence of a request from Lieutenant-Colonel Bell, on the morning of the 14th, two Officers, Lieutenant-Colonels Gibbs and Adams, repaired to a place agreed on, to meet Lieutenant-Colonel R. Munro and Captain De Havilland. The result of that conference did not, I understand, bring things nearer to a settlement. And you will hear from the before-mentioned Officers, that the Prisoner did declare his resolution, not to deliver up the Fort and Garrison, to the proper authorities. The place was strictly blockaded, and all supplies cut off from the Garrison. On the 16th and 17th

of August the prisoner addressed two letters to the Right Honorable the Governor General; upon which I shall not now make any comment, as they, together with their inclosures, will be submitted for your consideration. Affairs remained in this state until the 21st; on which day, the Honorable Mr. Cole sent into the Fort a letter, which he had received from the British Resident at Hydrabad, stating, that the Officers of the Hydrabad Subsidiary Force had signed the test of obedience to the Government of Fort St. George. On receipt of this letter, Captains De Havilland and Cadell were sent out of the Fort with a Flag of Truce, to Lieutenant-Colonel Davis; and, in consequence, hostilities ceased on that night. On the 22d, Lieutenant-Colonel Bell forwarded to Lieutenant-Colonel Davis, a similar test signed by the Officers of the Garrison under his command. And, in obedience to the orders of Lieutenant-Colonel Davis, the troops moved out at day-light, on the morning of the 23d, leaving their arms piled on the ground.

I have now, Gentlemen, in as concise a manner as lay in my power, detailed to you the leading features of the Mutiny, as well as the several points, which are to be established on the part of the prosecution; and I shall not further detain you, but proceed to the examination of the several evidences. The first which perhaps ought to be called, is Lieutenant-Colonel Davis.—I am sorry to say, that Officer has forwarded me, a declaration on oath by two Surgeons, of his inability, from severe ill health, to attend. I have conceived it necessary, to state this to the Court, as Lieutenant-Colonel Davis might be considered as an evidence, whose testimony could not properly be dispensed with. But as the Officers of his Staff, who are acquainted with every particular, are in attendance, I hope, on the part of the Crown, to be able to dispense with his testimony. The first Witness therefore that I shall call, is Captain Webster, Assistant Adjutant General.

Captain Webster, Assistant Adjutant General to the Troops in Mysore, a Witness in support of the Prosecution, duly sworn.

The Charge is read.

Judge Advocate. Were you Assistant Adjutant General to the troops in Mysore, on the 30th of July last?

Answer. I was.

Judge Advocate. Do you know who was in command of the Garrison of Seringapatam on that day?

Answer. Yes, Lieutenant-Colonel Bell.

Judge Advocate. Did you accompany Lieutenant-Colonel Davis Commanding Officer of the troops in Mysore, to Seringapatam, on or about the 30th of July?

Answer. On the 29th of July I did.

Judge Advocate. Will you state to the Court any orders you communicated, either by writing or verbally, from Lieutenant-Colonel Davis to Lieutenant-Colonel Bell, on the 30th of July?

Answer. On the 30th of July, I wrote a letter to Lieutenant-Colonel Bell, by order of Lieutenant-Colonel Davis, communicating his desire, that he would convene the Officers of the Company's Service in that Garrison, and, with them, wait upon Lieutenant-Colonel Davis.

Judge Advocate. Was that order obeyed, and how soon?

Answer. It was obeyed in part: some part of the Officers waited upon Lieutenant-Colonel Davis. Lieutenant-Colonel Bell did not accompany the Officers. The letter was written about 9 o'clock; and the Officers that did attend, came about 12 o'clock.

Judge Advocate. It is my wish, that the evidence should now detail every thing he knows, relative to the charge before the Court.

State to the Court whatever you know, which is in any way connected with the charge.

Answer. I have already stated, that Lieutenant-Colonel Bell was desired to assemble the Officers, and with them to wait upon Lieutenant-Colonel Davis; and I have also already mentioned, that the letter communicating that desire, was written and sent about 9 o'clock. An answer to it was received almost immediately, in which Lieutenant-Colonel Bell acknowledged the receipt, and said, the Officers should be assembled as soon as possible.—About 10 o'clock, none of the Officers having arrived, Lieutenant-Colonel Davis directed me, to wait upon Lieutenant-Colonel Bell, and to inform him, that, as his order for assembling the Officers, might have created some alarm in their minds regarding the cause of that summons, he would dis-

pense with seeing them. Lieutenant-Colonel Bell replied, that the Officers were scattered over the Fort, many of them lived at a distance, which was the occasion of the delay; but, that several messengers, or orderlies, had been sent to collect them, and that they would soon be assembled and wait upon Lieutenant-Colonel Davis. I returned to Lieutenant-Colonel Davis with that reply, with which he seemed satisfied.—I think an hour more had elapsed, when Lieutenant-Colonel Davis again desired me to return to Lieutenant-Colonel Bell, and again inform him, that he dispensed with their attendance for the reason already assigned, and to add, that he desired they might not wait upon him.—Lieutenant-Colonel Bell replied, that the order was of that positive nature, or words to that effect, that he must insist upon Lieutenant-Colonel Davis seeing the Officers; observing at the same time, that they were almost all assembled, and ready to go.

Question by the Court. At the time Lieutenant-Colonel Davis desired you to say, he dispensed with the attendance of the Officers, did he say, he dispensed with Lieutenant-Colonel Bell's attendance?

Answer. There was no name mentioned.

Captain Webster continues.

Upon that, I observed to Lieutenant-Colonel Bell, that I believed, Lieutenant-Colonel Davis expected him to wait upon him, with the Officers; to which he replied, he saw no occasion for that.—At this time, a considerable number of Officers were collected, and had begun to move towards Lieutenant-Colonel Davis's house. I accompanied them there, and, on reaching the house, announced their arrival to Lieutenant-Colonel Davis.—He desired they might come in to his bed-room, which he was not able to leave, and addressed them.—The conversation I cannot repeat word for word. He expressed to them his regret for the present posture of affairs, the state of the Garrison, and admonished them to return to their duty;—not to credit a report which they had heard, of his intention to make use of the troops of the Mysore Government, for the purpose of seizing their persons, as that, he declared to them upon his honor, was not the case. They requested, he would inform them, whether or not he had received orders from Government, to

seize their persons, and separate them from their men (alluding to the Company's Officers of course.) He declined making known to them the orders he had received from Government; but pledged his word to them, that no steps should be taken, in the execution of whatever orders he might have received, without previously communicating to them his intention of doing so.—A good deal of conversation passed between Lieutenant-Colonel Davis and the Officers, on the subject of reports which they had heard, of the intention of Government to use under-hand or secret means of separating them from their men; and they, the Officers, expatiated fully on the injurious consequences of such a step. Lieutenant-Colonel Davis again assured them, that he neither had intentions of his own, nor instructions, to use secret means of separating them from their men.—The Officers frequently urged to Lieutenant-Colonel Davis, the necessity there was for his remaining in the Garrison; stating, that his presence would give confidence to them in the sincerity of his assurances, or words to that effect, and that his presence was also necessary to remove the alarm in the minds of the Officers, which the various reports they had heard had created.—They also mentioned, that his presence would ensure the tranquillity of the Garrison. Lieutenant-Colonel Davis observed, that, from every thing he could judge from, it did not appear to him, that his orders were likely to be obeyed, or that his presence could be of any use; but that, since they were so urgent in their request, he desired, they would state the number of days they thought his presence would be necessary, and that any moderate request he would comply with. They then stated, that, as he had promised to forward their address of yesterday to Government, they hoped, it would not be inconvenient for him, to remain with them, until a reply was received.—I do not remember the reply Lieutenant-Colonel Davis made to that request; but, in subsequent conversation, the Officers urged so strongly the necessity of his remaining, as led him to understand, that he could not be permitted to depart.—With this impression on Lieutenant-Colonel Davis's mind, the Officers left the room.—Before they had left the house, Lieutenant-Colonel Davis desired me to call them back again, observing to me, as it was evident we were Prisoners, it might have

some effect towards our enlargement, to communicate the orders of Government, respecting the test of obedience required from the Company's Officers.—On the return of the Officers to the room, Lieutenant-Colonel Davis desired me to read to them, that part of the Government instructions above alluded to, and the test. This was done accordingly; and, upon hearing the instructions and the test read, the Officers returned their thanks to Lieutenant-Colonel Davis for having communicated them. Lieutenant-Colonel Munro, who was the senior Officer present, requested, in the name of the Officers of the Garrison, that he might be permitted to take home with him, the papers I had just read, for his and their consideration. This request was complied with, and I delivered the papers to him. The Officers, on leaving the room, were loud in their expression of thanks to Lieutenant-Colonel Davis, for the moderate, friendly part he had acted towards them. About half past 3 o'clock, Lieutenant-Colonel Davis received a private letter, from Lieutenant-Colonel Bell, stating, that as, in the conversation with the Officers, he, Lieutenant Colonel Davis, had expressed his fears (or something of that nature) that his orders would not be obeyed in the Garrison, he, Lieutenant-Colonel Bell, begged leave to assure him, that any orders from him, that did not affect the safety of the Company's Officers, would be fully obeyed; and that, whatever the conduct of the Officers might be on this occasion, they begged to assure him, of their unalterable esteem and regard. Previous to the receipt of this letter, I had addressed a letter to Lieutenant-Colonel Bell, by order of Lieutenant-Colonel Davis, stating, that as it had come to his knowledge, that orders had been given for no Officers to be permitted to pass the gates, without authority from him, and, as it was his, Lieutenant-Colonel Davis's, intention to proceed immediately to Mysore, he desired orders might be given to the guard, to allow him and his staff to pass the gate without any opposition.—To this, no answer was received; but, about half an hour afterwards, the Town Major came to the house where Lieutenant-Colonel Davis and myself were living, and requested to speak to me. I went out, and was informed by the Town Major, that an answer to my letter was preparing, and that, until it was received, Lieut.-Col. Davis could not be permitted to leave the Fort; that orders to

that effect had been given to the guard, and that he was then going to repeat these orders to the guard.—He further said, that Lieutenant-Colonel Bell requested, I would not leave the compound of the House.—About 4 o'clock, Lieutenant-Colonel Munro waited upon Lieutenant-Colonel Davis with a paper, which, he stated, contained the sentiments of the Officers of the Garrison. I think, it was signed, as well as I recollect, by Colonels Bell and Munro and Major Kenny.—Being in possession only of a copy, which I cannot swear to, and having no immediate recollection of the contents of it, I cannot pretend to say, what the contents of it were.—Lieutenant-Colonel Davis having perused the paper, desired Lieutenant-Colonel Munro, to inform Lieutenant-Colonel Bell, and the other members of the committee, that he could not make any compromise of his authority, and desired him to get a direct answer to his desire, to be permitted to leave the Fort. About 5 o'clock, Lieutenant-Colonel Munro returned and said, he was desired by Lieutenant-Colonel Bell, to tell Lieutenant-Colonel Davis, that he might save himself the trouble of leaving the house, or of getting into his palanqueen, (I am not sure which,) as he would not be permitted to pass the gates; at the same time, Lieutenant-Colonel Munro expressed his regret, at being the bearer of so unpleasant a message.—About sun-set Major MacDowall and Captain De Havilland waited upon Lieutenant-Colonel Davis, and told him, that it was entirely a mistake, his being detained, as it was not the intention of the Officers of the Garrison, or of the committee, (I am not sure which,) to place any restraint upon upon his person, or on the persons of his staff. They again urged, how much it was the wish of the Garrison that he should remain, and how necessary his presence was, to the tranquillity of the Garrison, and to relieve the minds of the Officers. Lieutenant-Colonel Davis told them, that his state of health was such, as rendered it necessary he should proceed immediately to Mysore; and, about half past six or seven o'clock, Lieutenant-Colonel Davis left the Garrison.

The Court adjourns till 10 o'clock to-morrow morning.

FRIDAY, THE 10TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present as yesterday.

Captain Webster called into Court, and examined on his former oath.

Judge Advocate. Did you report to Lieutenant-Colonel Davis, that Lieutenant-Colonel Bell was not coming to his quarters, along with the Officers of the Garrison?

Answer. I did.

Judge Advocate. Did the Officers of both the Battalions of Native Infantry wait upon Lieutenant-Colonel Davis?

Answer. As well as I could observe the Officers that were there, there were none of the 2d Battalion 19th Regiment.

Judge Advocate. Can you state, from your own knowledge, whether the 2d Battalion 19th Regiment, or any part of it, got under arms, during the time Lieutenant-Colonel Davis was expecting the Officers?

Answer. No, I cannot.

Judge Advocate. Had you been in the Fort of Seringapatam, for some time previous to the 29th of July?

Answer. Certainly; within four days.

Judge Advocate. Did you observe any difference in the state of the Garrison on the 30th, from that which you had been in the habit of seeing formerly?

Answer. I had not an opportunity, not having left the house the greater part of that day, except on occasions of messages from Lieutenant-Colonel Davis to Lieutenant-Colonel Bell, as stated in evidence.

Judge Advocate. Did you return to Mysore, on the evening of the 30th?

Answer. I did.

Judge Advocate. Did you observe any guns, near to the gate thro' which you passed?

Answer. It was dark when I passed through and my memory does not serve me, whether I saw any guns or not.

Question from the Court. Was it so dark that if guns had been there, you might have passed without seeing them?

Answer. The night was very dark.

Question from the Prisoner. Was not some agitation visible in the minds of the Officers in the Garrison of Seringapatam, on and previous to the 29th of July?

Answer. On the 29th, there appeared to be; I did not observe it before.

Question. You may probably be aware, that, in such times, a Commanding Officer, who was anxious to preserve peace and discipline, must have had difficulties of no common nature imposed on him?

Answer. There can be no doubt of it, I think.

Question. Were you sufficiently in the confidence of Lieutenant-Colonel Davis, to swear, that the assembling of the Officers, on the occasion you mention, was not for the purpose of seizing them?

Answer. I think, I was.

Question. At least, was not such a suspicion almost universal through the Garrison?

Answer. I cannot answer, what the opinions of the Officers were; but, that there was no room for such a suspicion, I am certain. Many Officers did express their suspicion; and I assured them, there was no ground for it.

Question. Did I not sign the test of obedience to the Government, some days after Colonel Davis's requisition for the assembling of the Officers?

Answer. I do not know.

Question. Do you not know, that the Garrison was at that time under the influence of sentiments, which rendered my authority ineffective.

Answer. No; I do not.

Question. Did I ever refuse to concur with Lieutenant-Colonel Davis, in any measure he might deem expedient, for the restoration of quiet and subordination?

Answer. I have already stated, that Lieutenant-Colonel Bell declined waiting upon Lieutenant-Colonel Davis, when I told him, Lieutenant-Colonel Davis expected he should accompany the Officers; and in returning a public letter, sent to him by Lieutenant-Colonel Davis on the 31st of July.

Question. Did I not, by every means in my power, attempt to repress and prevent the meetings of Officers amongst themselves?

Answer. I cannot say.

Question. Do you not know, that orders were given, resolutions entered into, and every degree of anthority exercised by the persons whom you styled the committee?

Answer. No; I have no knowledge of that circumstance.

Question. Was I a member of that, or any other committee?

Answer. I do not know any further, than that, in the conversation between Lieutenant-Colonel Davis and Lieutenant-Colonel Munro, it fell from Lieutenant-Colonel Munro, that Lieutenant-Colonel Bell was a member of the committee.

Question from the Court. Was there any obstacle to your leaving the house you were in, on the 30th of July, as often and when you pleased?

Answer. Not until about 3 o'clock, when the Town Major communicated to me, what I have already mentioned.

Question. Under whose authority did the Town Major deliver that order?

Answer. I have already stated, that it was delivered as a message from Lieutenant-Colonel Bell.

Question from the Court. After the communication of this order, were there any additional sentries posted over the house.

Answer. I am not certain, whether it was after the communication of that order; but, certainly either after or five minutes before, there were.

The Witness retires.

Lieutenant Beaumont, Assistant Quarter Master General to the troops in Mysore, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. You are, I believe, Assistant Quarter Master General of the troops in Mysore?

Answer. I am.

Judge Advocate. Did you accompany Lieutenant-Colonel Davis, the Officer Commanding in Mysore, to Seringapatam, on the 29th of last July?

Answer. I did.

Judge Advocate. Did you remain in the Garrison, during any part of the following day?

Answer. Till about half past seven in the evening of the 30th.

Judge Advocate. Will you state to the Court, whatever occurred within your knowledge on that day, which has reference to the charge?

Answer. The first thing I recollect, that happened in the morning, was Lieutenant-Colonel Davis desired Captain Webster to write to Lieutenant-Colonel Bell, to request a meeting of the Company's Officers at his house,—I think at 10 o'clock. They did not arrive at that hour, nor for long afterwards. Lieutenant-Colonel Davis desired Captain Webster to go to Lieutenant-Colonel Bell, and say, that, as there appeared to be a great deal of agitation in the Fort, he would dispense with their attendance. When he came back, he said, the Officers would be at Colonel Davis's house immediately. About 12 o'clock, he desired Captain Webster to go, and say, he would dispense with their attendance altogether. Captain Webster returned, and said, the Officers would be at Col. Davis's house immediately. Very soon after that, the Officers of the Artillery and of the 2d Battalion 15th Regiment, and some other Officers in Garrison, arrived at Lieut. Col. Davis's house. They were shewn into Lieut. Col. Davis's room. I did not go in with them. After they left the room, Colonel Davis sent to request they would come back again, when I went into the room with them. Captain Webster was desired to read an extract of a letter from Government and the pledge, which he did.—Lieutenant-Colonel Davis told them, he would allow them till tomorrow to think of it, or words to that effect. And Lieutenant-Colonel Munro requested leave to take away the papers, which was granted. After that, the Officers went away, and a few of them returned, to thank Colonel Davis for the handsome manner in which he had delivered them the paper. I think, before Lieutenant-Colonel Munro left the house, Lieutenant-Colonel Davis asked him, whether he would come back, and let him know if he had permission to quit the Fort Lieutenant.Colonel Munro said, he would. No answer having arrived, between two and three o'clock, Lieutenant-Colonel Davis desired Captain Webster to write to

Lieutenant-Colonel Bell, to know, if he had permission to leave the Fort, as he wished to go to Mysore at 5 o'clock, or some words to that effect; to which no answer was returned. Shortly after, Captain Cadell, the Town Major, came to the house and said, an answer was preparing; and requested, neither Lieutenant-Colonel Davis nor his staff, would leave the compound of the house they were then in. This was reported to Lieutenant-Colonel Davis and myself, by Captain Webster. A little after three o'clock, Lieutenant-Colonel Davis sent for Lieutenant-Colonel Munro, and requested to speak with him. He came soon afterwards; and Lieutenant-Colonel Davis asked him, whether it was decided, if he was to be permitted to go to Mysore that evening or not. Lieutenant-Colonel Munro replied, that Lieutenant-Colonel Bell and the committee of Officers had not determined on it yet, but he would know very soon. Lieutenant-Colonel Davis requested Lieutenant-Colonel Munro, to go to Lieutenant-Colonel Bell, and tell him, that, if he heard nothing to the contrary, he would set off at 5 o'clock for Mysore. About 4 o'clock, Lieutenant-Colonel Munro returned and said, he was desired by Lieutenant-Colonel Bell, to tell Colonel Davis, that, if he attempted to quit the Garrison, he would be stopt; or words to that effect.—Lieutenant-Colonel Davis said, he was a Prisoner to all intents and purposes; and requested, if the guard was meant as a guard of honor, it might be taken away,--if it was meant as a guard of security, they might increase it as much as they pleased. But, as he had been told, he would not be permitted to go out of the Fort, he would not attempt it; and requested the sentries might be withdrawn from his house, or some words to that effect. The guard was soon afterwards withdrawn from the house, and the sentries placed outside the gates of the compound. Between six and seven in the evening, Major M'Dowall, Captains De Havilland and Pearse, and Mr. Casamajor, came to the house; and the two former asked for Colonel Davis. Captain De Havilland came up to me, and asked, if the Colonel dined in the Fort or at Mysore that evening. I told him, I believed, we were pretty snug where we were. Shortly after, those two Officers saw Lieutenant-Colonel Davis. And, in a short time, Lieutenant-Colonel Davis told Captain Web-

ster and myself, he had permission to go to Mysore; and we went out that evening after 7 o'clock.

Judge Advocate. Did you, in the course of the day of the 30th, leave the house in which you were residing?

Answer. I did not go out of the compound.

Judge Advocate. Had you been in the Fort of Seringapatam, for some time previous to the 29th of July?

Answer. I was in it on the 10th of July.

Judge Advocate. Did you observe any difference in the state of the Garrison on the 30th of July, to that it was in on the 10th of July?

Answer. I observed a great difference in that part of the Garrison, which I saw. There were guns mounted on the works, and a number of guns placed near the Mysore gate, in different directions.

Judge Advocate. Was any report made to you, for the information of Lieutenant-Colonel Davis, by Lieutenant-Colonel Bell, of the changes which had taken place?

Answer. None.

Judge Advocate. Were the troops, which composed the Garrison, hutted in the Fort or outside?

Answer. The Native troops were always hutted outside.

Judge Advocate. Agreable to orders?

Answer. I fancy, it was agreable to orders; I am not certain.

Question from the Court. By what person, was the letter written by order of Lieutenant-Colonel Davis to Lieutenant-Colonel Bell, requiring his permission to quit the Fort, sent?

Answer. I do not know.

Question. Was it customary for reports of any change in the Garrison to be made through you to Lieutenant-Colonel Davis?

Answer. Only with regard to the march or arrival of troops to and from the Garrison.

Question. Might not the alterations you mention with regard to the guns, have been merely accidental?

Answer. I think not.

Question. You have mentioned an appearance of agitation among the Officers, which induced Colonel Davis, to wish to dispense with seeing them on the morning

of the 30th of July. In what manner did this agitation discover itself?

Answer. The Officers were a long time in arriving at Colonel Davis's house, and we saw a number of Officers galloping past the house.

The Witness retires.

Alexander Boiswell, Esq. Superintending Surgeon, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you present in the Fort of Seringapatam, on the 30th of July last?

Answer. Yes, I was.

Judge Advocate. you attend at Lieutenant-Colonel Davis's house, on that day; and, if so, for what purpose and at whose request?

Answer. I paid a professional visit to Lieutenant-Colonel Davis in the morning; he told me, there was to be a meeting of the Officers, and ished I would attend.

Judge Advocate. Did you attend, when a meeting of the Officers took place; and, if so, state what occurred?

Answer. I attended with the Officers of the Garrison, between 11 and 12 o'clock. When the Officers entered Lieutenant-Colonel Davis's room, he told them, he had sent for them, to remind them of their allegiance to their King, to the Company, and to the Madras Government.—He was asked by some of the Officers, whether he had not instructions to seize their persons, and if troops were not marching by his orders in all directions towards Seringapatam. He replied, he did not think it necessary or himself at liberty to disclose, what orders or instructions he had received. The 80th Regiment was particularized, as one of the corps, that had received orders from him to march. He said, he would set their minds at ease, upon that point; as the 80th Regiment had received no orders from him to that effect. Lieutenant-Colonel Davis was requested by the Officers, to remain among them, and not immediately to leave Seringapatam. He said, his health was very bad, but, if 6 or 7 days were sufficient, he had no objection. I then left the room. The Officers came out shortly afterwards, and were called back again, when Lieutenant-Colonel Davis said, he would set their minds at

case, and read the last instructions he had received from Government. The pledge and a letter that accompanied it, were then read by Captain Webster. The Officers requested a copy of it, thanked him, and retired.

Judge Advocate. Did you remain in the Fort, during the greater or any part of the time stated in the charge?

Answer. I remained in the Fort, from the 31st July.

Judge Advocate. Do you know, whether there were any guns drawn up, near any of the gate-ways of the Fort, on the 30th July?

Answer. I did not remark any.

Judge Advocate. Have you, previous to the 30th of July, passed thro' the Mysore gate?

Answer. Yes; I have.

Judge Advocate. Did you, either on the 30th of July or any day subsequent to it, observe any guns planted near that gate?

Answer. Yes; I saw two guns stationed on the side of the road, going to that gate, within the inner gate, and in the body of the Fort.

Judge Advocate. Were those guns there previous to the 30th?

Answer. I did not remark them, previous to the 30th.

Question from the Court. Did you see any guns more than ordinary, stationed inside or outside of the Fort?

Answer. In front of the Arsenal, one day, I saw an unusual number of guns.

Question. Did it strike you, as any way remarkable, those guns being planted near the gate?

Answer. No, it did not.

Question. When the Officers who waited on Colonel Davis requested him to remain among them, was the request conveyed in a respectful way, such as should be made to a Commanding Officer, or in terms that induced you to believe, it was imposing a restraint on him?

Answer. Perfectly respectful, as far as I can judge; in terms of friendship and entreaty.

Question. When in the hall of Colonel Davis's quarters or at any other time, did any one mention to you, that Colonel Davis would not be suffered to leave Seringapatam?

Answer. No.

Question. Do you know, who issued the orders in the Garrison of Seringapatam, between the 30th of July and 23d of August?

Answer. I did not see an order, all the time I was in the Fort.

Question. Were you on duty in the Fort?

Answer. Yes.

Question. Who commanded in the Garrison of Seringapatam, during the period stated in the charge?

Answer. I considered Lieutenant-Colonel Bell, as the ostensible Commanding Officer. I recollect Lieutenant-Colonel Bell said to me, he was not Commanding Officer.

Question. Did you ever hear of a committee of Officers, exercising functions of authority there, during that period?

Answer. I heard of a committee of Officers; but I did not know what functions they exercised, nor who they were.

Question. Was the Commandant of the Garrison acquainted with the existence of that Committee?

Answer. I do not know.

Question. Under whose authority did you act in a military capacity?

Answer. Under the orders of Lieutenant-Colonel Davis, commanding the division.

Question. After the conversation took place, in which Lieutenant-Colonel Bell said he was not Commanding Officer, do you know, whether he exercised any command within the Fort of Seringapatam?

Answer. I considered Lieutenant-Colonel Bell as Commanding Officer.

The Witness retires.

Captain Webster is again called into court.

Question from the Court. Was the letter you wrote on the 30th to Lieutenant-Colonel Bell by order of Lieutenant-Colonel Davis, addressed to Lieutenant-Colonel Bell, or to the Officer Commanding the Garrison?

Answer. I think, to Lieutenant-Colonel Bell.

Question. Who was the bearer of that letter, and did the bearer report, on his return, the delivery of it to Lieutenant-Colonel Bell?

Answer. I cannot say, who the bearer of it was; but he certainly reported the delivery of the letter.

Judge Advocate. Did you, on the 31st of July, see a letter written by order of Lieutenant-Colonel Davis to Lieutenant-Colonel Bell, forwarding the test for the signature of the Officers of the Garrison?

Answer. I wrote the letter myself.

Question. Was the receipt of that letter acknowledged?

Answer. It was returned, with a private note from Lieutenant-Colonel Bell to Lieutenant-Colonel Davis.

Judge Advocate. Where is the original of that note?

Answer. It was forwarded to Government.

Judge Advocate. Was the letter you wrote by order of Lieutenant-Colonel Davis, returned in the same state as when you despatched it?

Answer. The letter was in the same state; but two enclosures, which accompanied it, were not returned.—The seal of the envelope was not broke; but the cover was torn.—The whole was under an envelope.

The Witness retires; and, it being near 3 o'clock, the Court adjourns till 10 o'clock tomorrow morning.

SATURDAY, THE 11TH DAY OF NOVEMBER, 1809.

The Court met pursuant to adjournment.

Members all present, as before.

Lieutenant Cadenskie of H. M. 80th Regiment, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. State what you know relative to the charge, which you have heard read?

Answer. On the morning of the 30th July, I reported to Lieutenant Adamson, who commanded a detachment of the 80th Regiment, that Lieutenant-Colonel Bell had given me orders the evening before, I being on guard, to fire upon any armed body of men that might cross the bridge, or come the Bangalore road. He told me likewise, that I was to do the same, if there were any armed men coming the Mysore road. In consequence of my report to Lieutenant Adamson, we discontinued guard-mounting. About 10 or 11 o'clock of the same day, the 30th, Lieutenant Adamson told us, the Officers of the 80th, that Lieutenant-Colonel Bell required our attendance at Lieutenant-Colo-

nel Davis's, who was then in the Fort.—We accordingly went; when Lieutenant Colonel Davis told us, that our attendance was not necessary, as he required only the Company's Officers, or words to that effect. Shortly after, a great number of Officers came into the room; when Lieutenant-Colonel Davis asked Captain Webster, where Lieutenant-Colonel Bell was. He answered, that Lieutenant-Colonel Bell had declined coming.

Judge Advocate. Did you observe, either on the 30th of July, or any subsequent day, an unusual movement of guns from the arsenal?

Answer. I saw guns moving about, subseqnent to the 30th July.

Judge Advocate. During the period you remained in the Fort, subsequent to the 30th, did you see more guns mounted on the works, than had been previous to that day?

Answer. Yes; there were more guns, than were ordinarily mounted.

Judge Advocate. Where?

Answer. Near where the breach was made when the Fort was taken, as well as I can recolleet.

Judge Advocate. Did you see any guns drawn out, within the Mysore gate?

Answer. No, I did not; I never was near that part of the Fort.

Question from the Court. Do you mean to say, that the orders you received, were communicated personally by Lieutenant-Colonel Bell, or through a Staff Officer?

Answer. I received them from Lieutenant-Colonel Bell himself, at near 6 o'clock in the evening.

Question. Did you ask any explanation of that order; that is, whether you were to fire indiscriminately on all bodies of armed men, or upon any particular troops?

Answer. I asked Lieutenant-Colonel Bell, whether he feared any enemy was coming against the place. He hesitated a little, and said, *Mysoreans, rascals*, or words to that effect.

Question. Was the order to fire on any armed force, given by Lieutenant-Colonel Bell in the presence of any other person?

Answer. No; it was not.

Question. Was there any order given, that the Officers of the 80th should discontinue guard-mounting; if so, on what day and by whom?

Answer. I do not recollect seeing any order to that effect; but Lieutenant Adamson told us, we were not to mount guard any more.

Answer. From the explanation of the order given by Lieutenant-Colonel Bell, did you understand, that you were to fire upon Mysoreans only?

Answer. As Lieutenant-Colonel Bell's answer to me was mysterious, I reported the circumstance to Lieutenant Adamson.

Question. Did you conceive, from the answer Lieutenant-Colonel Bell made to your question, that you were only to fire upon Mysoreans?

Answer. The way that Lieutenant-Colonel Bell made me the answer, I did not suppose that he only meant Mysoreans.

Question. By whom were you relieved that morning, and what orders did you give the Officer who relieved you?

Answer. I was relieved by Lieutenant Noble of the 15th Native Infantry, but did not give him any orders, more than the common guard report.

Question. Where was the guard stationed, that you commanded on the 30th July?

Answer. The Bangalore gate guard. I was relieved on the morning of the 30th.

Question. Who was in command of the Garrison of Seringapatam, from the 30th July to the day on which you left the Fort?

Answer. I understood, Lieutenant-Colonel Bell; in consequence of which, I brought the guard report over to him, as Commanding Officer of the Garrison.

The Witness retires.

James Archibald Casamajor, Esq. a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Did you hold any, and what situation, under the Government of Fort St. George, within the Island or Fort of Seringapatam?

Answer. I had the situation of Acting Judge and Magistrate.

Judge Advocate. Was there under your charge any of the public money?

Answer. There was.

Judge Advocate. State to the Court, whatever you know relative to the charge, which has been read?

Answer. On the morning of the 30th July about 2 o'clock, Captain Turner of the 15th Native Infantry went to the *Cutcherry* with a guard, and combined his own guard with that over the Treasury. I was summoned by my public servants, and went to Captain Turner, and asked him the object he had in view, in taking charge of the *Cutcherry* guard. He told me, for the purpose of securing the Public Treasury and wresting it from my charge. I asked him, whether he acted by the orders of Lieutenant-Colonel Bell. He said, certainly. He desired me to send away the armed *Peons* that were attending me, for that his guard were loaded. I told him, the people I had could make no opposition to him, otherwise he should not have the Treasure without resistance. I then asked him for a receipt for the money he had taken, which, he said, he would give; but, on my drawing out the draft of a letter to the Chief Secretary to Government, mentioning that the seizure of the Treasure was by order of Lieutenant-Colonel Bell, he objected to Lieutenant-Colonel Bell's name being mentioned,—saying, that, altho' the act was sanctioned by Lieutenant-Colonel Bell, he had not Lieutenant-Colonel Bell's permission to say so.—I told him, he could not revoke his acknowledgment, that he acted under orders from Lieutenant-Colonel Bell, and that there were Native witnesses present who understood English. He then declined to give any receipt, until he had communicated with the Officer Commanding the Fort. I immediately wrote a letter to Lieutenant-Colonel Bell, calling for a receipt, and remarking upon the impropriety of seizing the Treasure of Government from the person to whom it was entrusted. I went personally in the morning to Lieutenant-Colonel Davis, who was in the Fort of Seringapatam, and informed him of the seizure of the Public Treasury. I then went to Captain Cadell, the Town Major, to beg he would ask Lieutenant-Colonel Bell for an immediate reply to my letter. He afterwards came to me; and said, that Lieutenant-Colonel Bell had made some memorandums regarding

the motive which had induced him to seize the Public Treasure, which were to be read in my presence and Captain Turner's only. I requested, that Mr. Smith, the Assistant of the Judge and Magistrate, might also be a party to the reading of these memorandums. It was objected to by Captains Cadell and Turner, and dispensed with by me.—The reason assigned in this memorandum [illegible] that it had come to the knowledge of Lieutenant-Colonel Bell, that Mr. Casamajor had said, that, had he the means of forcing the Treasure off the Island, he would do so. I was with Lieutenant-Colonel Davis the greater part of the morning of the 30th; he shewed me the public despatches from Government, and told me he had required the attendance of Lieutenant-Colonel Bell and the Officers, for the purpose of tendering the pledge.—I was present in the room, when the Officers waited upon Lieutenant-Colonel Davis, and I then left the room.—After the Officers had left Lieutenant-Colonel Davis's, I saw him, and he expressed his regret, that Lieutenant-Colonel Bell had refused to comply with his order for attending. I then left the Fort, and returned between 3 and 4 o'clock. I went to Lieutenant-Colonel Bell's house, to request an interview with him.—I sent up my name; and Mr. M'Intosh, Adjutant of the Artillery, returned with a message from Lieutenant-Colonel Bell, that he could not see me.—I urged, that it was of moment, my seeing Lieutenant-Colonel Bell, as I was prevented from leaving the Fort, and, as Lieutenant-Colonel Davis was a prisoner, I wished to resign all public authority on the Island.—Mr. M'Intosh went back to Lieutenant-Colonel Bell; and returned, saying, that Lieutenant-Colonel Bell could not see me.—I then wrote a letter, and sent it to Lieutenant-Colonel Bell by Mr. M'Intosh. I was then told by Mr. M'Intosh, that Lieutenant-Colonel Bell had resigned the command of the Fort to a committee of Officers, and that he was not even privileged to receive my letter. Mr M'Intosh then wrote a letter, which induced three Officers to come to me, saying, it was not intended, I should be detained in the Fort, nor was it intended that Lieutenant-Colonel Davis should be prevented from leaving the Garrison.—I went to Mysore, late that evening, about 8 or 9 o'clock.

Judge Advocate. Did you usually reside within the Fort?

Answer. No. I was daily in the Fort, until the 1st or 2d of August.

Judge Advocate. Did you observe, whether any unusual number of guns were either mounted upon the works, or brought into the streets of the Fort, on or about the 30th of July and the days following that you went into the Garrison?

Answer. The guns, that were generally on the esplanade for exercise, were drawn within the walls.

Question from the Court Did you understand, by what Mr. McIntosh said to you, that Lieutenant-Colonel Bell had willingly resigned the command of the Garrison, or that he had been constrained to relinquish the command?

Answer. He simply said to me, that Lieutenant-Colonel Bell was not privileged to receive a letter from me, without the sanction of a committee of Officers, and that I must address them, if I thought it necessary to communicate with the military authority of the Garrison.

Question. Who were the three Officers that waited upon you?

Answer. Captain Pearce, Captain De Havilland, and Major M'Dowall.

Question. What did they style themselves?

Answer. They did not give themselves any appellation to me.

Question. Did they say, under whose authority they acted?

Answer. They did not; I did not ask them.

The Witness Retires.

John Smith, Esq. Paymaster of the troops in Mysore, and Garrison Storekeeper in Seringapatam, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Had you any, and what treasure under your charge, on the 30th of July last?

Answer. I had; but I do not recollect how much.

Judge Advocate. Will you state to the Court, whether that Treasure was seized, and by whose authority?

Answer. I received a letter from Captain Cadell, Town Major, during the day of the 31st of July, which I beg leave to lay before the Court. And, I believe it to be in his hand-writing.

Question from the Court. Do you swear, that this letter is in the hand-writing of Captain Cadell?

Answer. To the best of my knowledge, it is. *The letter is read, admitted, and is as follows.*

Seringapatam, 31*st July* 1809.

TO THE PAYMASTER,

Seringapatam.

SIR,

I have been directed by the Senior Officer of the Garrison, to inform you, that he has deemed it advisable to order the guard over your Treasury, not to allow it to be opened, without his (the Senior Officer's) positive orders.—I am directed to request, that you will, as soon as possible, transmit to me, for the information of the Senior Officer, an account of the money now in your Treasury, and to be acquainted, whether or not any part of it has been removed within the last few days, and to what place.

(Signed) GEORGE CADELL,

TOWN MAJOR.

Judge Advocate. After the receipt of the letter you have laid before the Court, were you or your servants prevented from having access to your Treasure, as often as you wished?

Answer. I never went to the Treasury myself, and I never saw my servants prevented from having access to it.

Judge Advocate. In whose possession were the keys of your Treasury?

Answer. In the possession of the head-servant and of the cash-keeper.

Judge Advocate. Did you consider, after the receipt of this letter, that you had not the same authority over your Treasury, as you had previous to it?

Answer. Yes; that I had not.

Judge Advocate. Did you make any, and what representation, to the senior Officer, Lieutenant-Colonel Bell in consequence of that letter?

Answer. I wrote a public letter to him, a copy of which I have in my public letter-book.

Judge Advocate. Were the keys of your Treasury taken from the custody of your servants, without your authority?

Answer. I did not hear, that they were taken from the servants.

Judge Advocate. Did you conceive, that you had the same power to open your Treasury, or to direct your servants to do so, after the receipt of this letter, as you had previously?

Answer. I conceived, I had not the same power or any power, over the contents of the Public Treasury, without the Senior Officer's positive orders.

Judge Advocate. Was any part of the money in your Treasury disbursed, without your sanction and authority?

Answer. Not to my immediate knowledge

Judge Advocate. When did you resume your authority over the Treasury?

Answer. On the 23d of August.

Judge Advocate. Did you examine the contents of your Treasury?

Answer. I did not.

Judge Advocate. From the accounts of your Office, do you know, whether any money was disbursed from the 31st July to the 23d of August, without your sanction?

Answer. A cash account was presented to me, on my return to the Fort, which contained disbursements during my absence from the 3d of August to the 23d, without my sanction.

The Witness amends his answer to the question, When did you resume your authority over the Treasure? by stating, Some time subsequent to the 22d of August.

Judge Advocate. When did you ascertain, what the contents of your Treasury were?

Answer. Some time subsequent to the 22d.

Question from the Court. What occasioned your relinquishing your duty of Paymaster to the troops in the Fort?

Answer. In consequence of being prevented from carrying on my public duty, as I had been accustomed to do.

The Court adjourns till Monday morning, at 10 o'clock.

MONDAY THE 13TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present.

Mr. Smith, Paymaster, called in, and examined on his former oath.

Judge Advocate. Were any of the servants of your Office placed under restraint, and, if so, by whose authority?

Answer. My head-servant, *Rangapah*, was not allowed to leave the Office, from the evening of the 31st July until some time during the day of the 1st of August, and by Captain Cadell's authority, as I think,—I am not certain.

Judge Advocate. Were any public buildings, under your charge, as Garrison Store-keeper, taken possession of, or opened, without your sanction?

Answer. I understood, that the public granaries were taken possession of, without my sanction.

Judge Advocate. Did you, as Paymaster, know, that a large sum of money was coming from the Ceded Provinces, for the use of your office?

Answer. I did.

Judge Advocate. Was that money brought into the Fort, and committed to your charge?

Answer. It was not.

Judge Advocate. Was any, and what report made to you, respecting that money, and by whom?

Answer. My servant, *Rangupah*, informed me, that the treasure had been brought to the Pay Office, and lodged there.

Judge Advocate. Is it not usual, that the arrival of Treasure for the use of the Office, should be reported to you by the guard, under whose charge it may have been placed?

Answer. It is.

Judge Advocate. Was this done?

Answer. It was not.

Judge Advocate. Can you assign any reason, why it was not reported to you?

Answer. I cannot speak positively.

The Witness retires.

Rangapah Naick, head manager of the Pay Office in Seringapatam, a Witness in support of the Prosecution, duly sworn, agreable to the rites of his religion

The charge is read.

Judge Advocate. State to the Court, what you know, respecting the charge which you have heard read?

Answer. On the 30th July, I went to the Office, at the usual hour of 11 o'clock; when I find Ensign Maloney, of H. M. 80th Regiment, waiting there for 300 Pagodas, with a receipt, on account of the detachment of the 80th. I immediately went to the cash-chest, in order to make the payment. I gave the key of the cash-chest, I had in possession, to the Cashier, and desired him to open the chest.—He began to break the seal, usually put upon the locks on the closing of the payments of each day, The Havildar of the guard immediately put a stop to his opening it.—I asked the reason. He said, that I am not at liberty to open, nor Mr. Smith Paymaster neither; but the cash-chest could only open, on the personal attendance of Lieutenant-Colonel Bell, the Officer Commanding the Garrison.—Ensign Maloney stood all the time this conversation took place, and immediately went to Captain Cadell, the Town Major, to report the same. I waited upon Captain Cadell, at the same time, and reported the message given me by the Havildar of the guard.—In reply, Captain Cadell said to me, Yes, *Rungapah*, I wrote a letter to your master to that effect;—go you and wait at the Office. A little after, Captain Cadell, in company with Ensign Maloney, came to the office, and desired me to open the chest, and make the advance of 300 Pagodas.—The Havildar of the Guard made some objections to Captain Cadell opening the chest; but Captain Cadell satisfied him, and stood till the receipt was put into the cash-chest, locked it and went away. From that period till the morning of the 23d August, whenever there was occasion to open the cash-chest, the Havildar of the guard, or some of the writers and people about the office, used to go to Lieutenant-Colonel Bell, or Capt. Cadell, and bring their Orderly Serjeant or Havildar, with permission to the Havildar of the guard, to open the cash-chest; and no bill or abstract was ever discharged without the signature of Lieute-

nant-Colonel Bell, senior Officer, or of Captain Cadell, *by order Town Major*;—sometimes only Captain Cadell. And Lieutenant-Colonel Bell, always put at the foot of the Bill, *Pay I. B.* Upon such documents, all Payments were made.

Judge Advocate. Did Lieutenant-Colonel Bell, at any time during the period stated in the charge, ever come to the Pay Office?

Answer. Once I saw him, and said to me, "You head-man of the office?" I said, Yes. He then said, I can get nobody to accept of the situation of Paymaster, and I shall be Paymaster myself; in consequence of your master having gone away, all this confusion and trouble happened;—he had better stay.

Judge Advocate. Did you report any of the above circumstances to Mr. Smith?

Answer. By three or four notes sent by me to Mysore, with the greatest difficulty.

Judge Advocate. Do you remember, on what day Lieutenant-Colonel Bell had the above conversation with you?

Answer. Between the 3d and 7th of August.

Judge Advocate. Were you placed under any restraint, and, if so, by whose authority?

Answer. On the 31st of July, about 12 o'clock in the forenoon, a Naig and 3 Sepoys were brought by Captain Turner and placed over me; and Captain Turner said, Rungapah, you must consider yourself under charge of this Naigue, must not go out without a Sepoy on any occasion.—I asked him, on what account I was placed under a guard. He said, For disobedience to the orders of the Officer Commanding the Garrison.—I asked, in what respect; he said, For not complying with the order for money to Ensign Maloney.—I then told him, On the contrary, I was most ready to wait on the cash-chest, but was stopped by the guard over it;—and I referred him to Ensign Maloney and Captain Cadell. He asked me, if I was sure, there was nothing else. I said, Nothing I know of. He told me, he would speak to Lieutenant-Colonel Bell and went away. A little before this happened, Captain Cadell came to me, and said, I have the Commanding Officer's orders, to call upon you, as head-servant

of the Pay Office, for the keys of the granary. To which I replied, I must beg leave to refer you to my master; without his orders, I am not at liberty to deliver the keys you require. He then said, Your master is not in the Office, and the military orders must be carried into execution;—dont give me the trouble; better deliver me the keys, or some words to that effect;—If you dont do it, I shall be obliged to break open the place, where the keys are.—I then told him, If that is the case, I will shew you where the keys are, you had better take them yourself.—I opened the drawer in which the keys were, and he ordered the Havildar to take them out.—I asked him to write one letter to my master, saying, he had taken the keys. He did so, and this letter is now in my master's hands. About 5 o'clock that evening, Captains De Haviland and Cadell came to my master, and after, some conversation they had with him, they came to me and said, that I might go and take my dinner, by taking a Sepoy with me to my house, provided I can't send for my rice and eat at the Fort.

Judge Advocate. Had you any conversation with Lieutenant-Colonel Bell on this day?

Answer. No.

Judge Advocate. Were the granaries taken possession of, and filled with Sepoys?

Answer. They were taken possession of; I dont know what they did with them.

Judge Advocate. Can you state any thing respecting a sum of 30,000 Pagodas, which was brought into the Fort?

Answer. That sum was brought to the Pay Office, about the 2d, 3d or 4th of August.

Question from the Court. Previous to the 30th July, was it usual for you to receive abstracts, signed by Lieutenant-Colonel Bell and Captain Cadell, to sanction the payment of their amount?

Answer. All abstracts were countersigned by the Officer Commanding the Garrison, and then signed by Mr. Smith, to pay the amount from the cash-chest.

Question. Previous to the 30th July, did you ever pay orders on the cash-chest, signed by Lieutenant-Colonel Bell alone?

Answer. Never, to the best of my recollection.

Question. Where did your master reside, when Lieutenant-Colonel Bell gave those orders on the cash-chest?

Answer. The greater part of the time, at Mysore.

Question. How often was Mr. Smith at the Pay Office, between the 30th of July and the 23d of August?

Answer. He came more than once, and always wrote a letter to Lieutenant-Colonel Bell.

Judge Advocate. Did you see Mr. Smith in the Fort, any day between the 6th and 23d of August?

Answer. I don't recollect.

Question. Was there any one present, when Lieutenant-Colonel Bell told you, he would be Paymaster himself?

Answer. Two or three Writers in the Office; but I did not call them to witness.

Question. Were they near enough to hear it, and do any of them understand English?

Answer. Every one of them understand English, and were within 3 or 4 yards.

Question. If there were only the letters *I. B.* put to orders for the advance or payment of money, why did you consider them, as coming from Lieutenant-Colonel Bell?

Answer. As he told me himself, that he would put, *pay I. B.* upon which I was to pay money.

Question. Was there any person present, when he said this?

Answer. I dont recollect.—Whenever abstracts came to the Office, countersigned by Lieutenant-Colonel Bell, the Examiner and the Cashier returned them for want of his initials; and which, when put to the paper, and brought back to the Office, were paid.

Several bills and abstracts are given in by the evidence, to which the signature, as above detailed, is affixed; and the Prisoner admits they are of his hand-writing.

The Witness retires; and Mr. Smith, Paymaster, is again called into Court.

Question from the Court. You have stated, that you never went to the Treasury; do you mean by that to say, that you never went to your Office or transacted any business, between the 31st July and 23d August?

Answer. I mean, that I never went to the cash-chest. I attended at the Office, on the 30th and 31st July, 1st and 2d of August.

Question. Did you write any letters on public business, and to whom, on those days?

Answer. It appears by the Public Letter-Books, that I did. One is dated 30th July, to Lieutenant-Colonel Bell, Commanding Seringapatam; and one to the Military Paymaster General. On the same day, and each of the following days, I addressed a letter to Lieutenant-Colonel Bell.

Question. Did you receive answers to your letters to Lieutenant-Colonel Bell?

Answer. I did not receive any written answer. A verbal message was, to the best of my recollection, brought by Captains De Havilland and Cadell, in reply to my second letter dated 31st July, stating, that my letter of the 30th to Lieutenant-Colonel Bell would be taken into consideration.

Judge Advocate. Were those letters you addressed to Lieutenant-Colonel Bell, delivered to him?

Answer. I should imagine, they were; I cannot recollect, by whom I sent them.

The Witness retires.

Shaik Emaun, Havildar in the 2d Battalion—Company 1st Battalion 9th Regiment N. I., a Witness in support of the Prosecution, duly sworn, agreable to the rites of his religion.

Choka Lingum, sworn to interpret agreable to the rites of his religion.

The charge is interpreted.

Judge Advocate. Did you command a guard in the month of July last, which escorted Treasure from the Ceded Districts to Seringapatam?

Answer. Yes, I did.

Judge Advocate. To whom were you ordered to deliver that Treasure?

Answer. I was ordered to escort it to Seringapatam. No name was mentioned. I was not directed to give it to any particular person.

Judge Advocate. Did you, on your approach to Seringapatam, receive any orders respecting that Treasure?

Answer. About 4 o'clock in the afternoon, two Hircarrahs came and told me, it was the General's order, that I should take the Treasure back.

Judge Advocate. What did you do, on receiving this order?

Answer. I asked the Peons, if they had any *chit* from the General; and, as they had not, I suspected them; and, as the country was at peace, I ordered a Naig and a Sepoy, to go on to the Fort, and to ask for orders from the Commanding Officer, the Fort Adjutant or the Paymaster.

Judge Advocate. What orders did you receive from the Fort?

Answer. In the night, between 12 and 2 o'clock, two companies came from the Fort, and took the Treasure.

Judge Advocate. Were there any European Officers with these companies, and who were they?

Answer. There were three Officers, Captain Bishop, the Adjutant of Crew's Battalion, and the third Officer I do not know.

Judge Advocate. Where was the Treasure taken to, on that night?

Answer. It was taken to the Paymaster's office.

Judge Advocate. At what distance were you from the Fort, when you were met by the Hircarrahs?

Answer. Four *coss.* We reached the Fort, about half past 6 o'clock in the morning.

Judge Advocate. Did you make any report of the arrival of the Treasure, to any Officer in the Fort?

Answer. I reported to Lieutenant-Colonel Bell, the Town Major and Captain of the day, immediately after I arrived.

Judge Advocate. Who was Commanding Officer in the Fort of Seringapatam, from the time you arrived there, till the day on which the troops marched out without their arms?

Answer. Lieutenant-Colonel Bell.

Judge Advocate. Did you receive any orders from Lieutenant-Colonel Bell in person, and how do you know he was Commanding Officer?

Answer. I did not receive any orders in person; but, as the Fort Adjutant used to go to him for orders, I conceived him to be Commanding Officer. Four or five days after I arrived, I was ordered on duty. I asked leave to return, and accompanied the Fort Adjutant to Lieutenant-Colonel Bell's house; he went in; and, when he came out, he told me, there was danger on the road, and I had better remain a few days.

Question from the Court. Had you no letter to deliver to the Paymaster, or any other person in Seringapatam, along with the money?

Answer. No.

Question. Who was the Fort Adjutant?

Answer. Captain Cadell.

The Court adjourns, till 10 o'clock to-morrow morning.

TUESDAY, THE 14TH DAY OF NOVEMBER 1809.

The Court met, pursuant to adjournment.

Members all present.

Captain Bishop of the 19th Regiment N. I. a Witness on the part of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Who commanded in the Fort of Seringapatam on the 30th and 31st July last?

Answer. I understood, that the authority of Commandant had been assumed by a body of Officers.

Judge Advocate. Who were those Officers?

Answer. I do not know.

Judge Advocate. Did you march out of the Fort of Seringapatam, with two companies of Sepoys or any detachment of troops, under your command, on or about the 31st July or 1st August?

Answer. No.

Judge Advocate. Did you march with any troops, about that period?

Answer. I accompanied about 100 men; and, it was about that period, to the best of my recollection.

Judge Advocate. Do you mean to say, those men were not under your command?

Answer. I do; they were not under my command.

Judge Advocate. Who was the senior Officer with them?

Answer. I was the senior Officer with them, but I did not command the party.

Judge Advocate. Who did you consider as in command of that party?

Answer. Lieutenant Harvey, of the 2d Battalion 19th Regiment.

Judge Advocate. Was there any other Officer with that party?

Answer. There was.

Judge Advocate. Who was he?

Answer. Lieutenant Napier.

Judge Advocate. At what hour did this detachment leave the Fort?

Answer. Between the hours of 9 and 11 o'clock, to the best of my recollection.

Judge Advocate. When did it return?

Answer. I do not know.

Question from the Court. Were you doing duty in the Garrison of Seringapatam, during the period stated in the charge, and, if so, from whom did you receive orders?

Answer. I think, about the 4th of the month, I was struck off the roster, having been requested to assume, or to take charge of the bazar department.—I generally received my orders thro' Captain Cadell, whom I considered staff of the Garrison.

Question. In what manner was it announced to the Garrison, that it was under the command of a committee?

Answer. I do not know, that it was announced in any public orders.

Question. You have stated, that you did not know the persons who composed the committee. How came you to recognize the authority of those whom you did not know?

Answer. I can only say, that I understood committees had been formed, in various parts of the Army, who had assumed the command, and, I heard, a committee was also formed in Seringapatam.—I did my duty, and never enquired who composed the commit ee.

Question. Did you make daily reports of the state of the bazar, and to whom?

Answer. I did not.

Question. Did you, at any time between the 30th July and 23d August, or on either of these days, receive any order from Lieutenant-Colonel Bell, in person or under his signature, or report to him?

Answer. I have received orders in person, but do not remember any in writing; and I have reported to Lieutenant-Colonel Bell.

Question. What was the nature of the order you received from Lieutenant-Colonel Bell, and at what period did you receive it?

Answer. I received an order from Lieutenant-Colonel Bell, on the night of the 11th of August, to ride out to Webb's monument, and see whether there was any Officer lying on the ground wounded,—it having been reported, that there was one.

Question. Was that the only order you received?

Answer. No, I do not think it was; I have received several orders from Lieutenant-Colonel Bell.

Question. If you considered the committee as exercising command, why did you report to Lieutenant-Colonel Bell?

Answer. I considered the committee as exercising the command, up to the 6th or 7th of the month,—after which, I made what few reports I had to Lieutenant-Colonel Bell.

Question. Did you report to the committee?

Answer. I once addressed a letter to the committee, and left it on a table in a room, where I understood the committee assembled.

Question. In whose house did you leave it?

Answer. In a vacant house, that formerly had been occupied by a Mr. Kitson of the 12th.

Question. Was he the last person who occupied it?

Answer. To the best of my belief and knowledge, he was.

Question. Did you ever hear or know, of any objection being made on the part of Colonel Bell, or of any other Officer, to this assumption of power by the committee?

Answer. No.

Question. Do you know, if the detachment you have mentioned, marched under any and what instructions, and do you know from whom these instructions were received?

Answer. I did not hear the instructions given, and I do not positively know who gave them.

Question. While you were with the detachment commanded by Lieutenant Harvey, will you relate what took place?

Answer. We marched for, I suppose, 10 or 11 miles, and came to a small *Pagoda*, where there was a guard with 6 bullock-loads, to the best of my recollection, of, I believe, money. I did not see the bags opened.—The bullocks were ready saddled, the loads were immediately put on them, and the detachment returned,—I left them about half way, and galloped into the Fort.

Question. Is this all you know that occurred?

Answer. There were at the Pagoda, two men, who had been confined by the guard, prior to our arrival, to the best of my recollection. On their being questioned, one said, he was a servant of Colonel Davis's, and the other of Mr. Cole's, and that they were to take these bullock-loads, by a circuitous route, to Mysore. They were asked, if they had any documents; they answered, none whatever. They accompanied the detachment as far as I did. The village people told us there were about 300 Mysore horse within 3 miles, and were expected to come for the Treasure.

Question. Was this information given by the village people, subsequent to your march from the Fort?

Answer To the best of my recollection, I heard it from one of the Sepoys of the guard, on my arrival at the village, who said, some of the villagers had told him.

Judge Advocate. Did Lieutenant Harvey, in your presence, make any report of the arrival of the Treasure at Seringapatam, and, if so, to whom?

Answer. No, he did not, in my presence.

Judge Advocate. Do you know any thing else relative to the charge before the Court, besides what you have already stated?

Answer. To the best of my recollection, not positively. On the 11th, when the Mysore horse cut in upon the two Battalions, who were coming from Chittledroog, some guns were fired; but I was not in the Fort, and did not see the direction they were pointed.

Judge Advocate. Where were you, all that day?

Answer. I was at the head of my company, at the other side of the river.

Judge Advocate. Do you know, whether any other detachment, besides the one you accompanied with Lieutenant Harvey, marched from the Fort from the 30th July to the 23d August?

Answer. On the 11th at night, I had a small detachment with me, when I went to look for the wounded Officers. —I cannot swear to any other detachment.

Question from the Court. You have stated, you were at the head of your company on the other side of the river. By whose orders were you there, and for what purpose?

Answer. I joined my company, on its march out of the Fort, in line with the Battalion.

Question. In consequence of what order, did you join your Battalion?

Answer. The Battalion was marching. I joined my company, on the line of march. I had no orders.

Question, How did you learn, the Battalion was marching out?

Answer. I saw it.

The Court is cleared; and, on being opened, the following is read and recorded.

Captain Bishop:

I am directed by the Court, to inform you, that, in consequence of the amnesty, it is impossible you can in any point of view criminate yourself, by declaring openly every thing you know relative to the transactions at Seringapatam; and they, therefore caution you, not to injure yourself, by withholding any information.

Judge Advocate. Do you know, whether any guns were fired by the troops composing the Garrison of Seringapatam, on the troops of H. M. and the Honorable Company, on the night of the 11th of August, or the following morning?

Answer. I heard guns fired, I have already said. I was at Webb's Monument,—a distance in a straight line of, I believe, about 3 miles.

Question from the Court. You proceeded the guard; did you make any report, on your arrival in the Garrison, and, if so, to whom?

Answer. I made no report.

Judge Advocate. Do you know, whether any troops marched from the Fort, on any day between the 1st and 4th of August?

Answer. I do not, from my own personal knowledge.

The Witness retires.

Lieutenant Beaumont, Assistant Quarter Master General, called into Court, and examined on his former oath.

Judge Advocate. Was any report made to you for the information of Lieutenant-Colonel Davis, by the Officer Commanding in Seringapatam, of the march from the Fort of any detachment or body of troops, within the period stated in the charge?

Answer. None.

Judge Advocate. Had it been always customary, previous to the 30th July, for the Officer Commanding in the Fort, to report the march of troops to and from the Garrison?

Answer. Always.

Question from the Court. Can you give any instances?

Answer. Many.—The 2d Battalion 19th Regiment were ordered to march to Bangalore :— they were afterwards countermanded ; and the Officer Commanding in the Fort, first forwarded the necessary indents for camp equipage and equipments, and, when the march was countermanded, he reported, that the camp equipage, &c. were lodged in store again.

Question. During the period of the charge, was any official report whatever, for the information of Lieutenant-Colonel Davis, of any thing that happened in the Garrison of Seringapatam, made to you?

Answer. Not to me.

The Witness retires.

Lieutenant Adamson of H. M. 80th Regiment, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Did you command a detachment of H. M. 80th Regiment, in the Garrison of Seringapatam, on or about the 30th July last.

Answer. Yes, I did.

Judge Advocate. How many Officers were attached to th detachment?

Answer. Myself and three Subalterns.

Judge Advocate. Did those Officers mount guard within the Fort of Seringapatam?

Answer. They did, until the 30th of July.

Judge Advocate. Were they then struck off the roster for duty?

Answer. After the 30th, they were.

Judge Advocate. On what account?

Answer. I requested from myself, that they should be so.

Judge Advocate. What induced you to make that request?

Answer. A report from two Officers, Lieutenant Charles Dick and Lieutenant Edward Cadenskie, reporting, that Lieutenant-Colonel Bell had ordered them to fire upon any Mysore troops, to the best of my recollection, that might pass the bridge.

Judge Advocate. To whom did you state your request?

Answer. To Captain Cadell, Town Major.

Judge Advocate. Had you any conversation with Lieutenant-Colonel Bell in person, on the subject?

Answer. No, I had not.

Judge Advocate. Did you at any time about the beginning of August, receive orders to march your detachment out of the Fort, and from whom?

Answer. I received orders from Lieutenant-Colonel Bell, on the 3d of August, to march the detachment out of the Fort.

Judge Advocate. Garrison orders, or in person?

Anwer. In person first; and afterwards there was an order given out.

Judge Advocate. Where were you ordered to encamp?

Answer. On ground, that would be pointed out to us. Lieutenant-Colonel Bell mentioned to me, on the Bangalore side of the Wellesley bridge.

Judge Advocate. Did you receive any orders from, or had you any communication with Lieutenant-Colonel Bell, relative to the place you were to march to?

Answer. I had a conversation with Lieutenant-Col. Bell. On the morning of the 3d, he came to my house, about the hour of 11 o'clock; and, after being seated, he said, he came to inform me, that I must march the detachment out from the Fort, to ground that would be pointed out to

me,—and that he thought it much for the best the detachment marching. Colonel Bell then said, to the best of my recollection, that he had been at home for some time, and that he had only a short time ago arrived in the country, and, shortly after his arrival at Madras, he was ordered up to take charge of the Garrison of Seringapatam, and that, on his arrival there, he knew nothing of the business that, was going on, regarding what had lately taken place. He further said, that, altho' he was Commandant of the Garrison, he was controuled in some measure by a committee; some of whom he really did not know—I then asked Colonel Bell, if the detachment might march to Cannanore, to join the head-quarters of the regiment. He said, No: I must march the detachment to Bangalore, and put myself under the command of Lieutenant-Colonel Gibbs:—Indeed, he would advise me to go to Bangalore, as by going the Cannanore road, I might be detained; and advised me, not to think of going nigh Mysore, as I might depend upon it, Mysore would be in ashes in a few days.—Colonel Bell, on leaving my house, said, I must march the detachment off in the evening, and that he would give me every assistance in his power, and that the detachment should have every thing they wanted during their march.—The order was out, very shortly afterwards. I received a note from Captain Cadell, regarding the sick being left behind. We marched in the evening, to the Bangalore side of the Wellesley bridge, to tents that were pitched there for us.

Judge Advocate. Had you any further communication with Lieutenant-Colonel Bell?

Answer. I had a note from Lieutenant-Colonel Bell.

Judge Advocate. What was the purport of it?

Answer. Here is the note.

It is given in, read, and admitted.

The Prisoner acknowledges it to be of his hand-writing.

"MY DEAR SIR;

Having seen, in the course of my drive this evening, the situation of your encampment, and having no doubt, that several guns rake the bridge,—I recommend most earnestly your placing guards, so as to prevent all possibility

of any body of men getting on the head of the bridge. This is meant only for yourself. Wishing you and party a pleasant march."

I remain

Yours very truly,

(Signed) J. BELL.

N. B. "I have thrown the ink on the paper, instead of the sand. I hope you will be able to make it out."

(Marked) J. B.

Judge Advocate. Was any person present during the conversation you have detailed?

Answer. No.

It being near 3 o'clock, the Court adjourns 'till 10 o'clock to-morrow morning.

WEDNESDAY THE 15TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present as before.

Lieutenant Adamson of the 80th Regt. called in, and examined on his former oath.

Judge Advocate. Did you communicate the conversation you had with Lieutenant-Colonel Bell, shortly after it occurred, to any person?

Answer. Yes, I did,—to the Officers of the detachment and to Lieutenant Grove also.

Judge Advocate. Did you move from your place of encampment, on the morning of the 4th of August?

Answer. Yes, I did.

Judge Advocate. Did you meet or see any body of troops going towards the Fort?

Answer. Yes, I saw Major MacDowall, Captain Turner and Lieutenant Noble, of the 15th Native Infantry, with about 4 or 500 Sepoys, as nearly as I could guess, with some Artillery-men, and two guns.

Judge Advocate. From what part of the country did they appear to be coming?

Answer. From the Chittledroog road.

Judge Advocate. Had you any conversation with any one in that detachment, before they reached the Fort?

Answer. I had, with Major MacDowall and Captain Turner.

Judge Advocate. Do you know, when that detachment left the Fort,

Answer. No, I do not.

Judge Advocate. Can you say, whether there were a greater number of guns mounted on the works, or drawn out within the Fort, from the 30th July to the 3d August, than had been previous to the former day?

Answer. I cannot say.

Judge Advocate. Whom did you consider as Commanding Officer of the Garrison of Seringapatam?

Answer. Lieutenant-Colonel Bell.

Judge Advocate. Was it ever intimated to you, except in the conversation you had with Lieutenant-Colonel Bell, that his authority was superseded in the Fort?

Answer. No, it was not.

Question from the Court. Do you know, whether there was any committee of Officers formed in the Garrison, for the purpose of exercising military authority?

Answer. I cannot positively say.

The Witness retires.

Modeen Khan, trooper in the body guard attached to the British Residency of Mysore, a Witness in support of the Prosecution, duly sworn agreable to the rites of his religion.

Choka Lingum called into court, to interpret.

The charge is explained.

Judge Advocate. Did you attend as an orderly to Lieutenant-Colonel Davis, on the 30th of July last?

Answer. When Lieutenant-Colonel Davis was in the Fort, I was his orderly.

Judge Advocate. Did you on that day receive from from Captain Webster, Assistant Adjutant General, a letter to deliver to Lieutenant-Colonel Bell, and did you deliver it?

Answer. I got a letter from Lieutenant-Colonel Davis, not from Captain Webster.

Judge Advocate. At what o'clock did you receive that letter?

Answer. Four o'clock in the afternoon.

Judge Advocate. Did you deliver it, and to whom?

Answer. I took the letter, and gave it to a Serjeant at Lieutenant-Colonel Bell's house, who took it in, and, when he came out, he desired me to go away.—I asked him, if there was any answer,—and he told me to go.

Judge Advocate. Do you mean, that Lieutenant-Colonel Davis gave you the letter with his own hand, or that it was a letter from Colonel Davis?

Answer. I was standing before him, as he was lying on the bed; when he sat up, wrote the letter, and gave it to me with his own hand.

Question from the Court. Did you carry any other letters, either from Colonel Davis or Captain Webster to Lieutenant-Colonel Bell, on that day?

Answer. No.

The Witness retires.

Major M'Dowall of the 2d Battalion 15th Regiment N. I. a Witness on the part of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you in the Fort of Seringapatam, on the 30th of July last?

Answer. Yes.

Judge Advocate. Did you wait upon Lieutenant-Colonel Davis in the afternoon of that day, in company with any other Officers?

Answer. On the evening of the 30th July last, I waited upon Lieutenant-Colonel Davis, in consequence of having heard, he was under some apprehension of being under restraint, knowing at the time, it was not intended by the Officers of the Garrison, that he should consider himself under the smallest.—I am not certain, whether any person accompanied me there or not; but, before I came away, I saw Captain Pearce in the compound, and I think also Mr. Casamajor.

Judge Advocate. How did you learn, that Lieutenant-Colonel Davis considered himself under restraint.

Answer. I heard so, in a casual way, from Captains Limond and Turner, in the course of conversation, which at the same time was mentioned, that Lieutenant-Colonel Davis had inquired, whether the guard in his compound was a guard of restraint or a guard of honor; that, if it was a guard of restraint, he wished it to be augmented, if a guard of honour, he wished it to be withdrawn.

Judge Advocate. Under what authority did you wait upon Lieutenant-Colonel Davis, as before stated by you?

Answer. Under the authority of the opinion of several of the Officers of the Garrison.

Judge Advocate. Were any number of Officers assembled, for the purpose of giving their opinion upon that subject?

Answer. No.

Judge Advocate. Did you ever see any letter, addressed by the Assistant Adjutant General to Lieutenant-Colonel Bell, respecting the restraint, under which Lieutenant-Colonel Davis conceived himself to be?

Answer. I cannot recollect whether I did or not, without seeing the letter.

Judge Advocate. Say, to the best of your knowledge, whether Lieutenant-Colonel Bell knew that Lieutenant-Colonel Davis considered himself under restraint?

Answer. I do not know, that Lieutenant-Colonel Bell ever knew it.

Judge Advocate. Whom did you consider as Commanding Officer of the Garrison of Seringapatam, on the 30th July?

Answer. Lieutenant-Colonel Bell as Senior Officer;—but, whether or not his orders regarding the Officers would have been obeyed, I cannot say. I rather think, if he had ordered the Officers out of the Garrison, they would not be obeyed.

Judge Advocate. Do you know, whether any intimation was given to Lieutenant-Colonel Bell, that his authority was usurped by any person or persons in the Garrison?

Answer. No, I do not.

Judge Advocate. If such a circumstance had taken place, must you have known it?

Answer. I suppose I must have known it, as well as any other Officer.

Judge Advocate. Was there much agitation in the Garrison, on this day, the 30th July?

Answer. Considerable;—so much so, that the Officers particularly requested Colonel Davis to remain with them, till the alarm blew over; but he would not.

Judge Advocate. Do you know, or did you see Lieutenant-Colonel Bell make any, and what attempts to suppress this agitation?

Answer. Lieutenant-Colonel Bell frequently recommended moderation. It is my opinion, if he had attempted to suppress it, he would have been placed in the same situation as Lieutenant-Colonel Innes at Masulipatam. He would have been placed in arrest.

Judge Advocate. Now, I ask you again, whether he took any measure to suppress this agitation?

Answer. No; Lieutenant Colonel Bell throughout recommended moderation.

Judge Advocate. Do you know, what number of European Artillery were in the Fort at that time?

Answer. I believe there were upwards of 200. I am not certain.

Judge Advocate. If Lieutenant-Colonel Bell had himself signed the test on the 30th July, do you think, from the estimation in which he was held, that his example would have been followed by the greater, or any part of the Officers under his command?

Answer. No. I do not think it would.

Judge Advocate. Do you know of any Officers, who formed themselves into a committee, and who excercised military authority within the Garrison.

Answer. There was an Officer from each corps, who frequently met, to consult what was best to be done under the existing circumstances. They were not always the same Officers, nor do I know, that they were appointed by the authority of the voice of the Garrison.

Judge Advocate. Was the result of these consultations communicated to Lieutenant-Colonel Bell?

Answer. Not that I know of.

Judge Advocate. Were they ever?

Answer. I do not know, whether they were or were not.

Judge Advocate. Were you a Member of that committee?

Answer. Sometimes I was one of those Officers that met from the corps.

Judge Advocate. Did those Officers, when they met together, consider the military authority in the Garrison as vested in their hands?

Answer. Yes, as far as I could observe, they did.

Judge Advocate. Do you mean to say, that, during the whole period of the charge, the military authority was exercised by those Officers?

Answer. I think, it was exercised by those Officers till about the first week in August.

Judge Advocate. After that, by whom?

Answer. By Lieutenant-Colonel Bell, as far as I could observe.

Judge Advocate. In what manner, or by what means, did Lieutenant-Colonel Bell resume his authority.

Answer. The Officers of the Garrison met and dissolved the committee, and said, that Lieutenant-Colonel Bell must assume the authority himself.

Judge Advocate. Did you, about the beginning of August, accompany or command a detachment which marched from the Fort.

Anwer. Yes; I commanded it.

Judge Advocate. Under what, and whose instructions.

Anwer. I received my orders from my immediate Commanding Officer, Lieutenant-Colonel Munro, to march out a certain distance on the Serah road, but not to commence hostilities or molest the inhabitants of the country:—to make one march, and, if I did not meet the Officers from Chittledroog, to return again.—At this time, the Officers of Chittledroog had thrown themselves under the protection of the Garrison of Seringapatam, until the arrival of Lord Minto, as I understood.

Judge Advocate. When did you return to the Garrison?

Answer. I went out on the morning of the 3d, and came back on the morning of the 4th, I think so.

Judge Advocate. Did you make any report, or communicate to Lieutenant-Colonel Bell what you had done.

Answer. Yes, I reported to Lieutenant-Colonel Munro and Lieutenant-Colonel Bell.

Judge Advocate. Did you know, whether Lieutenant-Colonel Bell was acquainted with the march of your detachment, and for what object it had marched, previous to your report to him?

Answer. I cannot speak from my own knowledge.

Judge Advocate. Did Lieutenant-Colonel Bell make any observations, when you reported to him?

Answer. None that I recollect.

Judge Advocate. What was the nature of your report to him.

Answer. That the detachment had returned.— I first waited upon Lieutenant Colonel Munro; he was not up, otherwise I would not have gone to Lieutenant-Colonel Bell. As far as I recollect, this is all the report I made.

Judge Advocate. Can you bring to your recollection,

whether you informed Lieutenant-Colonel Bell, that a quantity of grain was brought in with your detachment?

Answer. There was not a seer of grain brought in by the detachment, nor any molestation whatever committed amongst the inhabitants.

Judge Advocate. Did you see, on the 31st July or 1st August, a letter addressed by Lieutenant-Colonel Davis to Lieutenant-Colonel Bell, forwarding the test for the Officers' signature?

Answer. No, not that I recollect, upon either of those days.

Judge Advocate. Did you, on any other day?

Answer. No.

Judge Advocate. Did you, see any letter addressed to Officers Commanding Corps by Lieutenant-Colonel Davis?

Answer. In consequence of a letter that Officers Commanding corps had written, the test was sent in, I think, on the 2d of August. I did not see any letter.

Question from the Court. In what manner did the agitation in the Garrison of Seringapatam, which you have mentioned, shew itself?

Answer. I think, upon the 28th July, a report was prevalent in the Garrison, that an attempt was to be made by the Mysore troops to seize the Fort by surprize. In consequence of the alarm which this excited, Lieutenant-Colonel Davis came into the Fort himself the day after. An honorary guard was ordered to Lieutenant Harvey's quarters, which he occupied. It was also said at this time, that Lieutenant Grove of His Majesty's 80th Regiment, who then belonged to the station of Mysore, had, unknown to the Commanding Officer of the Garrison, entered the Fort and remained in the barracks of the 80th Regiment for a night. This added considerably to the alarm; which the Garrison were then under. On the 30th, Lieutenant-Colonel Davis desired the Company's Officers of the Garrison to wait upon him. After they were assembled in his apartment, and admonishing the Officers, he was asked, Lieut.-Col. Davis, have you or have you not orders from Sir George Barlow to seize the Company's Officers in the Garrison? To which he replied, I am not at liberty to answer that question. The Officers of the Garrison then gave him their assurance of their loyalty to their

King and country, and begged that he would remain with them until the alarm blew over,—to which he at first seemed to accede. The Officers of the Garrison then took their leave; but, before they got out of the compound, they were called back, and an extract from the letter of the 26th July from the Chief Secretary to Government to Lieutenant-Colonel Davis, read to them. They then had no longer any doubts of orders having been received by Lieutenant-Colonel Davis, to seize the Company's Officers, who refused to sign the test in this division. This was what occasioned the alarm. The Officers declared, they would not allow themselves to be seized. Every man seemed to have an opinion of his own, on and after the 30th July. The Sepoys declared, that they would not allow their Officers to be separated from them.

Question. Did any alterations in the guards at Lieutenant-Colonel Davis's house, take place in the course of the 30th, and why?

Answer. When Lieutenant-Colonel Davis enquired, whether the guard at his house was a guard of restraint or a guard of honor, and said, if a guard of restraint, let it be augmented, if a guard of honor let it be withdrawn,—the guard was withdrawn.

Question. Was there any augmentation of sentries, during the course of the day?

Answer. None, that I ever heard of or saw.

Question. Do you know, whether any message was sent at any time in the course of that day, to Lieutenant-Colonel Davis, by Lieutenant-Colonel Bell or any other person or persons, that he, Lieutenant-Colonel Davis, would not be allowed to pass the gates, or words to that effect?

Answer. No, I do not.—I was not present on any occasion of the kind.

Question. Was any correspondence between Colonel Davis and Lieutenant-Colonel Bell, at any time between the period, in the charge, submitted to your perusal, or to that of the committee of Officers you have mentioned?

Answer. I saw one letter written by Lieutenant-Colonel Bell between those periods.—I saw a letter from Lieutenant-Colonel Davis and Mr. Cole; but, I believe it

was directed to the Officers in the Garrison, or the controuling power in the Garrison.—I am not certain, whether Lieutenant-Colonel Bell's letters were to Lieutenant-Colonel Davis, or to the Assistant Adjutant General, enclosing others.

Question. Were you acquainted with the contents of all, or any of those letters?

Answer. I must have seen some of those letters, but, without seeing them now, I could not speak to the contents.

Question. Did you see any answers to those letters?

Answer. I cannot positively say, without seeing the letter alluded do.

Question. Was the letter alluded to, that is, the letter from Lieutenant-Colonel Davis and Mr. Cole, laid before the committee for their information, or to deliberate on?

Answer. It was laid before the Officers from each corps, which had met that day, the day that I saw it.

Question. Were Lieutenant-Colonel Bell's orders ever disobeyed, to your knowledge?

Answer. No orders that Lieutenant-Colonel Bell ever gave, to my knowledge, were disobeyed.

Question. Do you conceive, that Lieutenant-Colonel Davis was restrained in the exercise of his military authority, during his residence at Seringapatam?

Answer. I certainly do; because, had he ordered the Officers of the Garrison to give themselves up prisoners, the men would neither have allowed it, nor do I believe, the Officers would have obeyed it.

Question. Was his authority in any way restrained?

Answer. Yes, so far as his orders would not have been obeyed.

Question. Did Lieutenant-Colonel Bell in any manner, to your knowledge, ever signify his disapprobation of the meetings of the Officers which you have mentioned.

Answer. No, I dont recollect having had any conversation with Lieutenant-Colonel Bell on that subject.

Question. Was Lieutenant-Colonel Bell present at any of those meetings of Officers from different corps?

Answer. I never saw Lieutenant-Colonel Bell at any of those meetings.

Judge Advocate. Do you know, whether Lieut. Colonel Bell ever gave the Officers of the Garrison to understand,

that he would carry into execution, whatever plans they might think proper to adopt?

Answer. No, I do not.

Question from the Court. Was the authority of Lieutenant-Colonel Davis restrained, by Lieutenant-Colonel Bell or the Officers of the Garrison?

Answer. I do not think, the Officers of the Garrison would have either obeyed Lieutenant-Colonel Davis or Lieutenant-Colonel Bell,—the agitation was so great.

The Court adjourns till 10 o'clock to-morrow morning.

THURSDAY, THE 16TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members present as before.

Major M'Dowall is called into Court, and his evidence of yesterday read over to him.

The Witness alters his evidence, by saying;

I saw one letter, signed by Lieutenant-Colonel Bell, Lieutenant-Colonel Munro and Major Keny, dated, I think, the 30th July, addressed to Lieutenant-Colonel Davis, upon the subject of the alarm which existed in the Garrison, begging he would use the influence of his rank and situation to interpose with Government.

The Witness also says; That Lieutenant-Colonel Bell never was at any meeting which I attended, nor did I ever hear of his having attended any of the meetings. If he had, I am sure I must have been made acquainted with it.

Question. Did Lieutenant-Colonel Bell know the existence of those committees in the Garrison under his command?

Answer. Yes, he certainly must.

Question. You have stated, that, in the conversation with the Officers on the morning of the 30th July, Colonel Davis at first acceded to their wish, with regard to remaining at Seringapatam. Did he afterwards, to your knowledge, express any repugnance to remaining in that Garrison?

Answer. He afterwards appeared very anxious to get to Mysore, saying, that his health was in a very bad state. I never heard him express any repugnance.

Question. Was it in the power of Lieutenant-Colonel Bell to have permitted Colonel Davis to proceed to Mysore?

Answer. I don't know.

The Witness retires.

William Mills, Conductor of Ordnance, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you present in the Garrison of Seringapatam, from the 30th July to the 23d August?

Answer. I was.

Judge Advocate. Who commanded in the Fort?

Answer. To the best of my knowledge, Lieutenant-Colonel Bell.

Judge Advocate. During the period stated in the charges, how many guns were delivered from the arsenal?

Answer. Two eighteen pounders brass, 8 twelve pounders brass, and 10 six pounders brass.

Judge Advocate. How were they disposed of?

Answer. I cannot say.

Judge Advocate. Was any ammunition delivered along with those guns?

Answer. Yes, issues were made daily, according as the ammunition was applied for?

Judge Advocate. On what voucher and by whose authority?

Answer. I acted immediately under the orders of the Commissary; he ordered me to issue every thing that was applied for, by order of the Commanding Officer.

Judge Advocate. In what manner was that order for the issues communicated to you?

Answer. The first order was from the Commanding Officer;—afterwards, whenever an European or Lascar came from any of the posts on the island, issues were made to them.

Judge Advocate. Did you ever receive any order, signed by Lieutenant-Colonel Bell, to issue ammunition?

Answer. Never.

Question from the Court. Was the Commanding Officer's order communicated to you, verbally, or in what manner?

Answer. Verbally to me, and the other Europeans of the department, by Captain Brown.

Question. Were the issues of ammunition delivered during the period in the charges, more than had been usually issued prior to that time, and was it ball or blank cartridge?

Answer. Certainly more;—both gun and musket ball ammunition was issued. These issues were more than usual, unless on the issues on the annual indents.

Question. Was the issue of ammunition according to usage, or was there any deviation from the usual mode?

Answer. There was a great deviation; because there were no vouchers for the issuing of it.

Question. Were the guns brought back to the stores, and when?

Answer. No.

The Witness retires.

The Honorable Arthur Cole, Acting British Resident at the Court of Mysore, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. What situation did you hold under the Government of Fort St. George, during the period stated in the charge?

Answer. I was in charge of the Residency of Mysore.

Judge Advocate. Did you, as acting British Resident, address a letter, in conjunction with Lieutenant-Colonel Davis, the Officer commanding in Mysore, to Lieutenant-Colonel Bell, and the Officers in the Fort of Seringapatam, on or about the 3d of August last?

Answer. I did.

Judge Advocate. Is this letter I now give you, the one you allude to?

Answer. Yes, it is.

It is read, admitted, and is as follows:

"To Colonel Bell and the Officers in controul of the Fort of Seringapatam.

Sirs;

"From the delay which has occurred in your reply to the terms of Government (under date the 26th ultimo,) explained to you in the first instance by Colonel Davis in person, and afterwards forwarded by letter to Colonels Bell and Munro and to Major Kenny, and from the seizure on the night of the 2d instant of a large supply of Company's treasure, together with the hostile march last night of a strong party of Sepoys, with guns, &c. into the Mysore country,—We with *regret* and *horror* conclude, that you determinedly intend to oppose Government *at all extremities*.

"You must be well aware, that it is our *decided* reso, lution to support the authority of the British Government with our lives, our power, and with all the resources of the Mysore state. Anxious, however, to avoid a sanguinary contest with our countrymen and many of *our late friends*, and heartily desiring to prevent an effusion of blood in this unhappy contest, we again come forward to exhort you, to accept either of the terms prescribed to you; and, forgetting the personal indignities so repeatedly offered to us, and through us to our Government and our country, we will assure you, that, although we cannot controul the final decision of our rulers, we will submit the expression of our anxious hope, that the Honorable the Governor in Council may be pleased, even at this period, to consider you as equally deserving of his merciful consideration, as those Officers who have retired from the force collected at the Mount, Madras, &c, whose conduct has not been marked by the same bold spirit of opposition which you have evinced.—We remain your obedient servants,

(Signed) A. H. COLE, *Sr. Asst. in charge Mysore Residency.*

HENRY DAVIS, *Lieutenant-Colonel Commanding Mysore.*

Residency, August 3, 1809."

Judge Advocate. Was any reply received to this letter?

Answer Yes.

Judge Advocate. Is this the reply?

Answer. It is.

It is read, admitted and is as follows?

"To the Honorable A. H. Cole, *Acting Resident at Mysore*;

And Lieutenant-Colonel DAVIS, *Commanding in Mysore.*

Sirs;

"We have had the honor to receive your letters of yesterday's date.—In that of Lieutenant-Colonel Davis, which states, that the communications received by Lieutenant Oldhall shall be laid before the Honorable the Governor in

Council by to-morrow's dawk, we have a further assurance of your earnest and honorable desire, to avert the evils which might ultimately arise, from a conjuncture so unprecedented and extraordinary.

" With regard to the letter, bearing your joint signature, in which you comment upon demonstrations on the part of the Garrison, which you denominate *Hostile ;* we have the honor to state to you, that, in consequence of the restrictions which the Mysore Government thought proper to place on this Island, it became an imperious and indispensible duty, on our part, to provide for the subsistence of the troops and inhabitants in this Garrison and Island; in the view of averting the dreadful consequences, which might be expected to result from a combination of circumstances so novel and alarming, as that of a British Garrison being cut off from the means of support, by a power in alliance with the British government,—and this too, at a time when the state of the Military, was a subject of reference to the chief authorities of Fort St. George.

" We do not read your expression of " *Late Friends*" but with very sensible emotion; as we canot meet you in the feeling which appears to have dictated it: and we lament exceedingly that you should complain of personal indignities, having been repeatedly offered to you : while we are conscious of no sentiment stronger than respect for your characters and public situations, together with our ardent desire to preserve the integrity of the British Power in India.

" We may be permitted to notice intelligence, which has reached us through various channels, but which we are anxiously disposed to discredit, that the Dewan of Mysore has evinced an inclination, and professed a power, to seduce from their fidelity and attachment to their European Officers, the Sepoys of the Honorable Company's army in this division.

" Although strengthened by the disbelief of this extraordinary information, by the known character and integrity of the chief Minister of the Mysore Government, and his uniform attachment to the British interests, we cannot, without great apprehension and anxiety, contemplate the

mischief that may arise, from the *report* even of such dreadful extremities being resorted to."

We have the honor to be, Sirs,

Your most obedient humble servants;

Seringapatam, Aug. 4, 1809. (Signed) ROB. MUNRO, *Lt. Col. 2d Bat. 15th Regt. for himself and Officers.*

" D. C. KENNY, *Major Comg. 2d Bat. 19th Regt. and Officers.*

" J. W. FREESE, *Major, for himself and Officers of Artillery.*

Judge Advocate. Do you know whether Lieutenant-Colonel Bell signed the pledge of obedience to the Government of Fort St. George, and on what day?

Answer. He did sign it. The paper was carried to the Residency by Lieutenant Oldnall, on either the 2d or 3d of August.

Judge Advocate. After the receipt of this pledge of obedience, had Lieutenant-Colonel Davis, to your knowledge, any communication with Lieutenant-Colonel Bell?

Answer. The only letters I recollect were, one on the 3d, and one on the 5th of August, I believe, until the correspondence which occurred, when the Fort was given up to the British Government.

Judge Advocate. Is this the letter addressed on the 3d, by Lieutenant-Colonel Davis to Lieutenant-Colonel Bell?

Answer. It is.

It is read and admitted, and is as follows.

To Colonel BELL.

Sir;

" I thank you for your communications. My heart and house and those of Mr. Cole are open to you; and whatever arrangement can convenience you, will be readily agreed to by yours obediently.

(Signed) HENRY DAVIS,
Lieut. Col. Mysore.

Mysore Residency, 3d August.

Judge Advocate. Did Lieutenant-Colonel Davis, to your knowledge, receive any letter from Lieutenant-Colonel Bell

on the 3d of August, except that one in which the pledge was forwarded?

Answer. I cannot say for certain, that there was another letter.

Judge Advocate. Will you look at this letter, and say, whether you recollect Lieutenant-Colonel Davis's receiving it, and also if, to the best of your knowledge, it is in the hand-writing of Lieutenant-Colonel Bell?

Answer. Colonel Davis did receive that letter, and I believe, it is in the hand-writing of Lieutenant-Colonel Bell.

The Prisoner admits it to be in his hand-writing. It is read, and is as follows.

Seringapatam, 3d August, 1809.

TO THE OFFICER COMMANDING IN MYSORE.

SIR;

"I have repeatedly reported to you, and gave my opinion candidly and fairly, respecting what I thought would be the consequence, if the interested views of a few individuals at Madras were continued. I think I should not fulfil the obligation I owe my king, country, and honorable employers, did I not make another attempt to save British India, if possible. I have also the honor to report, from the late conduct of the detachment of His Majesty's 80th, that I cannot be answerable for their safety a moment, as their whole proceedings are seen and made known to the artillery and sepoys, &c."

(Signed) J. BELL, *Lieut. Col. Sen. Officer.*

COLONEL DAVIS.

"I have written this in a hurry and under great agitation."

Judge Advocate. Can you, from your own knowledge, state any thing further relative to the charge before the Court?

Answer. I had not any personal communication with any Officer in the Fort, till the arrival of Captains De Havilland and Cadell with the flag of truce.

The Witness retires.

Major Freese of the Madras Artillery, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you in the Fort of Seringapatam, during the period stated in the charge?

Answer. I was.

Judge Advocate. Do you know, whether Lieutenant-Colonel Bell received, on the 30th July, a letter addressed to him on that day, by Lieutenant Colonel Davis, or by the Assistant Adjutant General, Captain Webster?

Answer. I do not.

Judge Advocate. Who commanded in the Fort, that day?

Answer. Lieutenant-Colonel Bell was the Senior Officer; but, I believe, there was a committee, who managed the affairs of the Garrison.

Judge Advocate. Did Lieutenant-Colonel Bell know of the existence of such a committee?

Answer. I don't know.

Judge Advocate. If you know, that a committee of Officers managed the affairs of the Garrison, can you say, whether that committee ever told Lieutenant-Colonel Bell, that they were the supreme power in that Fort, or communicated with him on the subject?

Answer. I do not positively know, that there was a committee; I only heard so.

Judge Advocate. Do you know, whether a letter was received, on or about the 3d of August, from Lieutenant-Colonel Davis and the Honorable Mr. Cole, addressed to Lieutenant-Colonel Bell and the Officers of the Garrison?

Answer. A letter was received, on or about that time.

Judge Advocate. To your knowledge, did Lieutenant-Colonel Bell read that letter?

Answer. I never saw or heard him read it.

Judge Advocate. Did you see that letter?

Answer. I did.

Judge Advocate. In whose possession was it, when you saw it?

Answer. It was given to me, either by Lieutenant-Colonel Bell or Captain Cadell.

Judge Advocate. Did Lieutenant Colonel Bell ever give you to understand, that he knew the contents of that letter?

Answer. As either Lieutenant-Colonel Bell or Captain Cadell gave it to me to read, and there were only us, three present when I read it, I concluded he must have seen it; and, as well as I recollect, some remark was made about that expression of *our late friends.*

Judge Advocate. Did Lieutenant-Colonel Bell see the reply, that was made to that letter?

Answer. I do not know.

Judge Advocate. As that letter was addressed to Lieutenant-Colonel Bell and the Officers of the Garrison, why did he not reply to it?

Answer. To the best of my recollection, upon my asking that question, it was said, that Lieutenant-Colonel Bell had signed the test.

Judge Advocate. Did Lieutenant-Colonel Bell, on the receipt of that letter, assemble the Officers of the Garrison, and inform them, that he had either signed or intended to sign the test?

Answer. Not to my knowledge.

Judge Advocate. Did he, to your knowledge, make any attempts to induce the Officers under his command, to sign the pledge of obedience to Government, and to desist from the line of conduct they were then pursuing?

Answer. I can only speak with regard to myself; he did not. I do not know that he did so with others.

Question from the Court. Were you present, when Lieutenant-Colonel Bell signed the pledge?

Answer. I was not.

Question. Was it generally known throughout the Garrison, on the day of the signature?

Answer. I cannot speak positively.

Question. From whom did you receive your orders, during the period mentioned in the charge?

Answer. I do not recollect having received any particular orders. I looked upon Lieutenant-Colonel Bell as my Regimental Commanding Officer, as I before said. I understood, the management of the Garrison was in the hands of a committee, until the 5th or 6th of the month of August, I think. I am not positive.

Question. Previous to the 5th or 6th of August, did you make any reports or returns to Lieutenant-Colonel Bell, or during the period in the charge?

Answer. All regimental reports were made to Lieutenant-Colonel Bell.

Question. Who gave out the parole and countersign, previous to the 5th of August?

Answer. I don't know. I never saw it, but in the orderly book.

Judge Advocate. At what period, to the best of your recollection, in the month of August, were the garrison orders issued, directing a Field Officer of the day to mount on duty?

Answer. It was early in the month of August.

Judge Advocate. Did you mount as Field Officer of the day, and to whom did you report?

Answer. I did, and reported to Lieutenant-Colonel Bell.

Judge Advocate. Did you see the garrison orderly book of Seringapatam, during the period of the charge?

Answer. I don't recollect that I did.

Judge Advocate. On what day did you first come on duty as Field Officer of the day, to whom did you report, and what was the nature of the report you made?

Answer. I do not recollect the date I first mounted. I reported to Lieutenant-Colonel Bell; and the nature of the report was merely the written reports of the Officers of the different gate guards, and main guard.

Question from the Court. By whom was the remark made about *our late friends*, when the letter from Mr. Cole and Colonel Davis was communicated to you?

Answer. I do not recollect, whether it was Lieutenant-Colonel Bell or Captain Cadell. I might myself have remarked on it. I believe, I did.

The Witness retires.

Judge Advocate. The next evidence I have to lay before the Court, is a letter from Lieutenant-Colonel Bell to Lieutenant-Clonel Davis, dated the 6th of August.

The Letter is read and admitted, and the Prisoner acknowledges the signature to be of his handwriting.

Seringapatam, 6th August, 1809.

To Lieutenant-Colonel DAVIS,

Commanding in Mysore.

SIR ;

" From the present melancholy posture of affairs, I think it necessary to lay before you, for the information of the Officer in Command of the Coast Army, and ultimately to Government ;

" That, on my return from furlough in February last, I soon learnt, there was a most alarming ferment at the Presidency by opposing parties ; and, not being able to form a judgment of the case, I immediately determined not to take a decided part, otherwise than giving an opinion when called on, what was in my conception most likely to bring those unhappy differences to a speedy and amicable termination.

" Notwithstanding the distressing orders of the 1st May last, and the personal insult cast upon me in consequence, I have always continued that line of conduct most likely to prevent a loss of such consequence, as the British interests in India.

" Since my arrival in this Garrison, I have not had the smallest intimation from any authority, of the objects Government have really in view.—I have been treated with the greatest possible neglect ; and, an entire want of that confidence, which, I should suppose, my conduct, situation and rank in the service merited, has been studiously withheld from me.

" These circumstances have rendered it impossible for me to quiet the minds of the Garrison, and to maintain that order and discipline, as I have before explained it to you, necessary to carry any point into effect.

" I hear from all quarters, of preparations making by the Mysore Government of an hostile nature, and several acts have already been committed by the Mysoreans in direct breach of the Mysore treaty.

" You, Sir, who, during the whole transaction, have acted in the most indirect manner with me, have not deigned to inform me, if such preparations and acts had the sanction of the Supreme Government, or the Government at home ; who, I presume, are alone empowered to transgress or alter any political measure or treaty, in which the welfare and safety of the empire is involved ; nor has the Resident been more communicative than yourself.

"The position of this Fortress, in the centre of the Mysore kingdom, and in the vicinity of its capital, demands, that the reasons for giving it up to the troops of that country be known, and well weighed, before they are listened to.

"The seniority of my rank has consigned the Fort and Island of Seringapatam to my charge and defence, and it behoves me, as I love my country, and my King, and as I value my commission and character, not to resign it, until I am warranted so to do by legal authority.

"I have been always aware, that the consequences of an illegal act can affect the person who commits it only; and when this principle has been so lately reiterated, through the medium of the General Orders, to every Officer in the army, as well by the Madras Government, as by that of Bengal, there would remain no excuse for my conduct, were I, by surrendering this place, to act so directly contrary to those injunctions. It even makes me shudder to suppose, that such a step might involve the nation to which I belong, in a long and sanguinary warfare; and that I should then have justly to reproach myself with the blood of my brother soldiers, from inattention to my duty, or, as some might suppose, intimidation.

"It may, in times of war, be expedient, to effect the object in view, that an Officer in command should act by his own discretion; and he may be warranted in taking a place, before he has instructions so to do; or he may give up a place which has been taken during the campaign, and is not yet fixed by any treaty. But, I presume, it would be the act of a traitor only, to abandon a Fortress of this importance, attached by treaty to the British Empire, without legal authority; particularly in times of profound peace with our neighbours, when the delay of a few weeks to obtain that authority, cannot be of consequence.

"I have therefore written to the Dewan of Mysore, warning him of the part he is unwarily led to act. And, I recommend it to you, Sir, and Mr. Cole, to advise him to the same effect; for, you may rely on it, that unless I am satisfied, that it is the intention of the Supreme Government to deliver over this valuable part of the British possessions, to a power, which, from its situation, we should be so jealous of, no effort, no attack will induce me to open

the gates to its troops; and, however moderate I wish to be, if the aggression on the part of the Mysoreans should continue, I may probably be induced in my own defence, to repel it.

"It appears to be of the utmost consequence, that you should forward, by express, this letter to his Excellency Lord Minto, and communicate to me more fully than you have hitherto done, what the intentions of Government are.

I have the honor to be, Sir,

Your most obedient humble servant,

(Signed) J. BELL, *Lieut.-Col. Senior Officer.*"

Judge Advocate. The next letter is one addressed by Lieutenant-Colonel Bell to Purneah, the Dewan of Mysore.

It is read, admitted and acknowledged by the Prisoner. It is as follows.

To PURNEAH, BAHAUDER,

Dewan of Mysoor.

"It is with the utmost surprise and regret I have received information, of your having broken one of the principal articles of the Mysore treaty with the Honorable Company Bahauder, without the authority and consent of the Supreme Government; and committed various other acts, hostile to their interests, in stopping supplies to the British Garrison in Seringapatam, and cutting off all communication with it and the British Government.—If these acts of aggression are not immediately repealed, I shall consider open hostilities to have been commenced by the Mysore Government against the Honorable Company Bahauder."

(Signed) J. BELL, *Lt. Col. Sen. Officer.*

A true copy.

(Signed) G. CADELL, *Town Major.*

The reply to that letter is now read, admitted and acknowledged by the Prisoner.—It is as follows.

(Copy.) To Lieut. Col. BELL.

SIR;

"I have received your letter, and understand the contents thereof. I have to acquaint you, that the Governor General appointed a Resident in Mysore, on the re-establishment of the Rajah to the *musnud*, in whose charge he is entirely placed.—All that has been done, has been by his order, and I beg to refer you to him. Should he give orders to the contrary, they shall be obeyed."

(Signed) PURNEAH.

A true Translation. (Signed) G. CADELL,
Town Major.

The next is another letter to the Minister, dated the 8th August, which is read, admitted and acknowledged by the Prisoner. It is as follows.

(Copy.) *Seringapatam, 8th August*, 1809.

To STREEMUNT PURNEAH,
Dewan.

"Since the receipt of your letter, various reports have reached me, of your having, in addition to your former aggression, caused the persons of European Officers and Native troops to be seized; even individuals going on furlough, to see their families.—All this has been done by your orders, in spite of treaties, good faith, and the sight of God.

"I consider these additional insults offered to the British Government, and the Honorable Company Bahauder; and I feel myself, in honour bound, to seize on all your people in this Fort, and to place under restraint, until such time as I receive orders from the Governor General, to release them, or, that by a change in your conduct, I shall be induced to alter my opinion of your intentions towards this Fortress.

I have likewise given orders, to detain all property belonging to the Rajah, or to yourself, in this Fort; that, if you should commence the blockade, and not supply the Garrison with the means of subsistence, I may have recourse to that property for the time being.

"Should however, any of it be converted to the use of the Garrison, it shall hereafter be regularly accounted for."

(Signed) J. BELL,

Lieutenant-Colonel Senior Officer.

Dispatched the 9th August.

A true Copy.

(Signed) GEORGE CADELL,

Town Major.

The reply to that letter is now read, admitted and acknowledged by the Prisoner.

It is as follows.

"To Colonel J. BELL.

Sir;

"I have received your letter, and observe the contents of it. I take the liberty to acquaint you, that I have no authority to do any thing myself; and that, when the Mysore country was delivered over to the Rajah of Mysore, and when he was placed upon the throne of Mysore, a Resident was appointed over the Circar of Mysore. I have conducted myself agreeably to his orders from that time, and have neither written to, or received letters officially, from any other Gentleman. I have not broken the treaty; and, with respect to the houses and property of the Rajah, my own, and his servants in the Fort, they were kept there by the authority of the Governor General and General Wellesley; and since, by that of Colonel Davis, and Mr. Cole, now Acting Resident. The orders from those two Gentlemen I consider the same as those of the Governor General, and I hope to conduct myself to their satisfaction. I have informed them of the contents of your letter; they will report it to the Governor General. I have never before seen two authorities in the British Government, and supposed there would be but one, and still think so; our houses and property in the Fort, are the property of the Lord of Bengal. We are all under his protection; and I have conducted myself to his satis-

faction, up to this day, and will, I trust, continue to do so in future.

I have nothing more to add."

(Signed) PURNEAH.

A true translation.

G. CADELL,

Town Major.

The Court adjourns till 10 o'clock tomorrow morning.

FRIDAY, THE 17TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present.

Judge Advocate. The next letter I have to lay before the Court, is one addressed on the 8th of August, by Lieutenant-Colonel Bell to Lieutenant-Colonel Davis. *It is read, admitted and acknowledged by the Prisoner;—and is as follows.*

Seringapatam, 8th August, 1809.

To LIEUTENANT-COLONEL DAVIS,

Commanding in Mysoor.

SIR;

"As I continue in the determination expressed in my letter to you, of the 6th instant, of not surrendering this Fort, whatever attacks may be made upon it; and, as I have within these two days received a report of an accession of European troops to the forces likely to move against this place, I find myself under the necessity of securing the island against any possible surprise, by cutting the bridges on the Cauvery, which it is now my intention to do. But, as the Superintending Engineer has given his opinion, that, after cutting the abutment of bridges of that construction, in the present state of the river, there is scarcely a possibility that they should stand; unwilling to involve our Government or that of Mysore into unnecessary expence, I have deemed it fit to make you this statement, that you may avert the calamity arising from the destruction of those edifices, by pledging yourself, as well as Mr. Cole, the

Acting Resident, and Parneah Bahauder, the Mysore Dewan, on your words of honor, that, until an answer is received from the Right Honorable Lord Minto, Governor General, to my letter to you above-mentioned, no force shall attempt to pass to the island, or, by their approach to those avenues, cause any alarm to the Garrison; that also, until that time, the Sepoys of the several guards at Mysore, &c. belonging to the corps here, shall not be tampered with, or any further measures taken to prevent their joining, if they chuse it."

I have the honor to be,

SIR,

Your humble servant,

(Signed) J. BELL, *Lieutenant-Colonel*,

Senior Officer.

Judge Advocate. I now lay before the Court, a letter addressed on the 9th of August, by Lieutenant-Colonel Bell to the Right Honorable Lord Minto, Governor General.

It is read, admitted and acknowledged by the Prisoner; and is as follows.

Seringapatam, 9*th August*, 1809.

TO HIS EXCELLENCY, THE RIGHT HONORABLE GILBERT LORD MINTO,

Governor General, &c. &c.

Fort St. George.

MY LORD;

"It is with the utmost compunction, that I address your Lordship out of the usual channel,—an expedient I never would have recourse to, were I not dictated to by the most imperious circumstances. I have used every endeavour to obtain Colonel Davis's confidence, as well as that of the Honorable Mr. Cole, Acting Resident, but to no purpose, in order to learn, what are the real intentions of Government in regard to this place.

"After having for several days, observed preparations of an hostile nature round this place, and having been given to understand from various quarters, that the whole of the Mysore forces and resources were about to be em-

ployed to reduce this Fortress, without being able to ascertain the authority for such measures, further than that they were encouraged and supported by the Acting Resident, and by the Officer Commanding the forces in Mysoor; I addressed a letter to Lieutenant-Colonel Davis on the subject, and in that letter I communicated my determination to resist whatever force might appear before this place, until I was satisfied that the breach of the Mysore Treaty had the approbation of the Supreme Government.

"Colonel Davis has not deigned to reply to my letter. I likewise wrote to the Dewan of Mysore, warning him of the consequence of the conduct he was induced to pursue; in order to avoid, if possible, the spilling of blood. But his answer was far from satisfactory.

"Your Excellency will perceive in my letter of the 8th instant to Lieutenant-Colonel Davis, a further endeavour to prevent mischief, by informing that Officer of my intention, in the event of an European force co-operating with the troops of the Dewan against this place, to cut the bridges over the river,—a measure which might occasion the total destruction of those edifices.

"Copies of all these letters I have now the honor to forward for your Excellency's consideration, together with one to Mr. Smith, the Paymaster, which he has not replied to, and another to the Dewan of Mysore, in consequence of a great number of small guards and other detached parties of Native troops having been seized, disarmed and confined by his orders. I therefore trust, your Excellency will honor me with your commands, and instruct me in the line of conduct I am to pursue in this difficult pass, so as not to endanger the country, or to commit the character of the British arms.

I have the honor to be, My Lord,

Your Lordship's most obedient

and humble servant,

(Signed) J. BELL, *Lieut. Col. Sen. Officer.*"

10th August 1809, P. M.

"P. S. Since writing the above, an encampment has been formed to the north east of this place, at the distance of about 2½ miles. I have not yet been able to ascer-

tain what force it is, but suppose it to be the European corps from Bangalore.—Every thing here is in readiness for the defence I am determined to make, until I receive your Excellency's instructions.

(Marked) J. B."

Judge Advocate. I have now to lay before the Court three letters, together with the pledge of obedience signed by Lieutenant-Colonel Bell; all of which have been alluded to in the course of the proceedings; but, from not having received them until last night, it has not been in my power to introduce them in the order of time, in which they would naturally stand.

They are read, admitted and acknowledged by the Prisoner.

MY DEAR SIR,

" You having in the conference of this day expressed a feeling of discontent, under the idea that your orders would not be obeyed in this Garrison. I have the pleasure to assure you, that every order from you shall be obeyed, which does not involve the safety of the Company's Officers.—Whatever may be their actions in the present important and emergent crisis, the whole of the Officers are anxious to assure you of their unalterable respect and esteem.

COLONEL DAVIS. (Signed) J. BELL.

Seringapatam, 31st July, 1809."

MY DEAR COLONEL,

" You must be perfectly aware of the state of the garrison, which I reported to you long since; and it is at the peril of my freedom to open any public communication.

I am, my dear Colonel, Your's sincerely,

(Signed) J. BELL."

" We the undersigned Officers of the Honorable Company's Service, do in the most solemn manner declare upon our word of honor, as British Officers, that we will obey the orders and support the authority of the Honorable the Governor in Council of Fort Saint George, agreably to the tenor of the commission which we hold from that Government.

(Signed) J. BELL, *Lieut. Col. Art.*

Seringapatam, 3d August, 1809."

TO LIEUTENANT-COLONEL DAVIS,
Commanding in Mysoor.

SIR,

"I have the honor to transmit to you the declarations of the Officers of this Garrison, which I am sorry to say have now fully proved what I formerly stated to you."

(Signed) J. BELL, *Lt. Col. Art.*
Sen. Officer.

"N. B. I shall remain here, while there is hope left of doing good, except I receive orders from you to the contrary.—The detachment of the 80th, I have been commanded to direct, should march to Bangalore. On enquiring the cause, I was informed it was occasioned by the conduct of Colonel Forbes at Cannanore.

(Signed) J. BELL."

Lieutenant Colonel Gibbs of H. M. 59th Regiment, a Witness in support of the Prosecution, duly sworn. The charge is read.

Judge Advocate. Did you receive any orders to march any body of troops to Seringapatam, in the month of August last?

Answer. Yes.

Judge Advocate. From whom?

Answer. From Colonel Davis commanding the division; and also from the Quarter Master General of the army.

Judge Advocate. What was the strength of your detachment, as to corps?

Answer. H. M. 25th Dragoons, 8 companies of H. M. 59th Regiment (when I first marched,) 8 companies of the 1st Battalion of the 3d Native Infantry, the 5th Regiment of Native Cavalry, with the exception of two troops left at this station. The Dragoons, Cavalry, and 59th Regiment had their guns.

Judge Advocate. When did you arrive before Seringapatam?

Answer. I arrived before Seringapatam, on the evening of the 10th of August.

Judge Advocate. Was the force under your command either strengthened or decreased, at the period of your arrival?

Answer. Three companies of H. M. 59th Regiment under the command of Major M'Leod, had been detached to Mysore.

Judge Advocate. Will you describe, to the best of your recollection, the nature of the position you took up?

Answer. I encamped, by positive orders from Colonel Davis, with the *Locaney* in my front;—the center of my camp was on the high road, leading to Seringapatam;—my left was opposite the *Caraghaut* Hill, and near to the river. On my right the *Locaney* ran round, and in my rear was a *nullah*, with deep *paddy* fields, between the *nullah* and my camp.—I was about a mile and three quarters by the road from the Fort, and, in a direct line from the Fort, could be reached by cannon shot.

Judge Advocate. Did you, on the morning of the 11th, order any part of your force under arms, and, if so, for what purpose?

Answer. On the morning of the 11th, between 10 and 11 o'clock, I heard firing, and ordered a patrole of Dragoons to reconnoitre, to ascertain what the firing might be. Almost immediately after, two of the *Silledar* horse, belonging to his Highness the Rajah of Mysore, came to my tent, and reported the Battalions from Chittledroog were approaching; that they had been engaged with them all the morning, and had two men killed, and three horses. I ordered the line to turn out immediately, and formed my advance, consisting of one squadron of L. D., light company of the 59th Regiment, and 1 six pounder under the command of Major Carden of H. M. 25th Dragoons. Having made my disposition for the troops, and security of my Camp, I joined the advance. Almost directly as we got on to the Chittledroog road, I saw the Battalions from Chittledroog take a bye road, to the right. They were followed by a large body of *Silledar* horse.—I attempted, with the advance, which had then been joined by another squadron of Dragoons and the Grenadiers of the 59th, to cross upon these Battalions; but was prevented by a very deep nullah impassable for a gun. I therefore ordered Major Carden, with the two squadrons of Dragoons, and the six pounder, to follow these Battalions by the route they had taken, and, to prevent bloodshed, to send forward an Officer, with a white flag, informing the Of-

ficer who might command these Battalions, that I could not admit of their advancing towards Seringapatam;—that I was there with H. M. 25th Dragoons, 59th Regiment and part of the Honorable Company's troops,—but that I would allow them to return.—I beg leave to say, I had not, at that time, received any orders from Government how I was to act, or from Colonel Davis, further, than to prevent those troops coming into Seringapatam.—My last orders to Major Carden were, for God's sake overtake those Battalions, and send a flag of truce to them. They were then retiring in confusion, and keeping up a slack fire on the *Silledar* horse. I attempted with the two flank companies of the 59th Regiment to head them; but the ground was so bad, and so intersected with *nullahs*, that I did not arrive at a very deep *nullah* opposite Webb's monument, until the business was over. During these transactions, several shots were fired at us from the Fort of Seringapatam. It was reported to me by Capt. Bean of H. M. 25th Dragoons, who was left in charge of the camp, that a body of troops had marched out of the garrison with 10 pieces of cannon, apparently to attack the camp.

Judge Advocate. After the business you have described was over, did you return to your camp?

Answer. Yes, immediately.

Judge Advocate. How long did you remain in the position you had taken up, and why did you move from it?

Answer. On the night of the 11th, or morning of the 12th, (it was by my watch half past 12 o'clock,) a heavy cannonade and bombardment commenced on our camp. The shells appeared to come from the *pettah* of Ganjam, the shot from the Fort or from the glacis of the Fort. The fire lasted for about 20 minutes; I believe, ceased for about 10 or 15 minutes; and commenced again; it then lasted perhaps a quarter of an hour. I am speaking to the best of my knowledge, for I did not time it.—On this fire, I was obliged to alter my position.

Judge Advocate. Were any of your detachment either killed or wounded?

Answer. There were no casualties in the Infantry Brigade; in the Light Dragoons, two horses on the outlying picket were killed,—one of them on the spot, and two so

wounded in their loins, as to be obliged to be shot next morning;—1 horse belonging to an Officer, Captain Fawcet, was wounded so severely, that he was afterwards shot;—and 1 belonging to Lieutenant Wade 25th Dragoons was slightly wounded;—1 Grass-cutter killed and 1 wounded; and some few tents were a good deal torn, by the bursting of the shells.

The Witness retires.

Lieutenant Ralston, H. M. 25th Light Dragoons, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you with your Regiment, on the 11th of last August?

Answer. I was.

Judge Advocate. Where was the Regiment?

Answer. Before Seringapatam.

Judge Advocate. Were you on duty, at any time during the day or night of the 11th?

Answer. I was Subaltern Officer of the outlying picket, on the night of the 11th.

Judge Advocate. Do you know, whether any shots were fired from the Fort of Seringapatam, during the night of the 11th or morning of the 12th?

Answer. About 2 o'clock at night, as near as I could guess, a firing of shot and shells commenced from the Fort and neighbourhood, in the direction of our Camp; which lasted about 40 minutes altogether;—I had no means of ascertaining the exact length of time.

Judge Advocate. Were any men or horses of the outlying picket either killed or wounded by any of these shots?

Answer. Two of the horses were so severely wounded, that they were obliged to be shot next morning;—no men hurt by the shot.

Judge Advocate. Can you say, whether any *Shrapnell* shells were thrown from the Fort?

Answer. I cannot say.

The Witness retires.

Judge Advocate. I shall now lay before the Court, a letter, dated the 12th of August, and addressed by Lieute-

nant-Colonel Bell to the Right Honorable Lord Minto.

It is read, admitted and acknowledged by the Prisoner. It is as follows.

Seringapatam, 12*th August* 1809.

To His Excellency, The Right Honorable Gilbert Lord Minto,

Governor General, &c. &c.

Fort St. George.

MY LORD;

"I am sorry to inform your Lordship, that, yesterday, so contrary to the wish I had frequently expressed to Colonel Davis of avoiding bloodshed, I was witness to a most distressing scene, without being able to avert the calamity.

"The approach of some of the Company's Native troops, was descried at about 11 o'clock in the forenoon, harrassed and hard pressed by a large body of Poornea's troops. I endeavoured to cover them by the guns of the Garrison, but they still proved too far off.—I was surprized shortly after to observe some European Cavalry and Infantry, who had arrived the evening before, advance towards them; and still more, when the former were said to have given the signal to the enemy to charge the Native Infantry; themselves joining in the general havock, in a most determined and inhuman manner.—The Sepoys were soon routed, and every man would probably have been put to the sword, had not some of them found their safety in a deep *nullah*; these made their escape to the Fort; and the wounded have been brought in.

"These troops have proved to be part of the 1st of the 8th, and 1st of the 15th N. I., coming from Chittledroog.—I have not yet been able to ascertain the number of casualties; but, I fear, they are above two hundred.—The force employed against them is estimated at three thousand men, besides the Europeans.

"Among the Officers, Captain Mackintosh of the 1st of the 8th is missing, and said to be wounded severely.—Every assistance has been afforded those unfortunate corps, and means taken to restore their confidence.

"When the Europeans above-mentioned arrived and encamped before this place, I endeavoured, by sending out the Field Officer of the day, to communicate with them; but to no purpose: and, as they had taken up a position, near one of the principal fords, which made me suspicious of their intentions, I deemed it necessary to make them move off, by sending a few shells into their camp. I should, however, have avoided this act of hostility, had not the conduct of that force been outrageous in the morning,—a circumstance which demonstrated their hostile determination, and which, for the safety of this place, obliged me to take these precautions.

"The force moved off this evening towards Bangalore, but probably only with the intention of crossing over to Mysore.

"It is not for me, to comment on these transactions I have merely stated facts for your Excellency's information. But I cannot help repeating my astonishment, at Colonel Davis's conduct towards me, after I had signed the declaration, and assured him I was ready to obey any legal order; and at his thus persevering in forcing this garrison to extremity, by every means in his power, and not even replying to my letters.

"I wait your Excellency's arrival at Madras, with impatience, that I may learn what course I am to pursue.

"I have before had the honor to state to your Lordship, the occurrences which have taken place here; but, as the regular course of the tappal has been interrupted, your Excellency may not have received my communication.

I have the honor to be,

My Lord,

Your Lordship's most obedient

humble servant,

(Signed) J. BELL, *Lieutenant-Colonel,*

Senior Officer."

Lieutenant Colonel Gibbs is again called into Court.

Judge Advocate. Did any Officer from the Fort of Seringapatam, wait upon you at any time during the day of the 11th of August?

Answer. No.

Judge Advocate. Did you receive any communication from the Fort, on that, or the following day?

Answer. On the morning of the 11th, just as the *Silledar* horse I have before mentioned, came to my tent, a Soldier of the 59th gave me a note, which, he said, he had received just at the side of *Laconey*, begging it might be brought to me.

The Judge Advocate here gives the Witness a paper, and asks him if it is the note. He says, the purport of the note is the same, but he cannot say positively whether it is the very note he received.

Judge Advocate. Can you, to the best of your recollection say, what the purport of the note was?

Answer. To demand a conference.

Judge Advocate. Did you, at any time during the period stated in the charge, accede to that demand?

Answer. I did not; but I was desired by Lieutenant-Colonel Davis to write a letter, saying to Lieutenant-Colonel Bell and the Officers of the Garrison, he would agree to a conference.

Judge Advocate. Is the paper I now give you, a true copy of the letter you wrote on the occasion?

Answer. It is.

It is read, admitted, and acknowledged by the Prisoner.

"To Lieutenant Colonel Bell and the Officers in Seringapatam.

Camp, 13th August, 1809.

Gentlemen;

"I had the honor of receiving your Letter of the 11th instant, which I judged it my duty immediately to transmit to the Officer Commanding the Division. Lieutenant-Colonel Davis has since arrived in camp, and assumed the immediate command; and he has directed me to say, that he will most readily meet any conference;—for which purpose, any two Officers chosen from your body, shall be met half way between Seringapatam and the camp at any time tomorrow, by two Officers whom Lieutenant-Colonel Davis will appoint, each party pledging itself for

the safe return of those Officers."

I have the honor to be, Gentlemen,

Your most obedient humble servant,

(Signed) S. GIBBS, *Lieutenant-Colonel 59th Regiment.*

A true copy.

" GEORGE CADELL, *Town Major.* "

Judge Advocate. Is this the answer you received to that letter?

Answer. This is the letter I received in answer.

It is read, admitted, and acknowledged by the Prisoner.

" *Seringapatam*; 13th *August* 1809,
½ *past* 4 *o'clock p. m.*

To Lieutenant-Colonel GIBBS,
Commanding H. M. 59th Regiment,
Sir; *&c. &c.*

" I have had the honor of receiving your letter of this date, and have to inform you, that two Officers of this Garrison will be sent, tomorrow morning at 10 o'clock, to the 4 mile stone on the Bangalore road, to meet the two Officers Colonel Davis may think fit to depute thither.

" This is the pledge for the safety of your Officers, and your letter above-mentioned is considered in the same light towards those of this Garrison.

I have the honor to be, Sir,

Your most obedient humble servant,

(Signed) JOHN BELL, *Lieutenant-Colonel,*
Senior Officer.

" P. S. I consider your letter a pledge for the Mysoreans also not molesting our Officers, while on that deputation."

Judge Advocate. Who were deputed by Lieutenant-Colonel Davis, to meet the two Officers from the Fort?

Answer. Lieutenant-Colonel Adams and myself.

Judge Advocate. State to the Court whether you met any Officers from the Fort, where, and what passed during the conference?

Answer. On the morning of the 14th, at 10 o'clock, LieutenantColonel Adams and myself, at the 4 mile stone, met Lieutenant-Colonel Munro and Captain De Havilland, bearing a Flag of Truce. They were accompanied by Lieutenant Walker of the 8th Native Infantry, but who did not come to the conference. We informed those Officers, that we were deputed by Lieutenant-Colonel Davis, and shewed our authority in writing.

The Witness here gives in the authority, which is read and admitted, and is as follows.

" The Officers of the Garrison in Seringapatam having, on the 11th instant, requested a conference with Lieutenant Colonel Gibbs, I have, after mature consideration, determined to comply with their request, and I hereby depute Lieutenant Colonel Gibbs of H. M. 59th Regiment and Lieutenant-Colonel Adams of H. M. 25th Dragoons, to meet any two Officers whom the Garrison of Seringapatam may think proper to depute, for the purpose of holding a conference. I am induced to take this measure, from an earnest desire to prevent a further effusion of blood, and to put a stop to the many horrid consequences which are to be apprehended from a continuance of the existing state of affairs in Seringapatam.

(Signed) HENRY DAVIS,
Lieut. Col. Comg. Mysore. "

Camp;
August 14, 1809.

Lieutenant-Colonel Gibbs continues his statement.

We demanded their's.—Captain De Havilland replied, that Colonel Bell had not thought it requisite, or had not furnished them with one. He then went on to say, they had nothing to propose; had been deputed to meet, because we wished it;—that Seringapatam could not, would not be surrendered, to the authority of Lieutenant-Colonel Davis, or to the authority of Sir George Barlow; that there was no authority in India, to whom it would be given up, but to that of the Governor General; that Lieutenant-Colonel Bell, sooner than surrender it to any other authority, would die under its walls, or perish in its ruins; one of those expressions was made use of.—After this positive and solemn declaration from the Officers,

officially deputed to meet us, I had nothing to offer.' They then demanded us to pledge ourselves, that a letter addressed to the Governor General of India, should pass our Camp in safety; which we pledged ourselves, it should. We separated, shortly after this.

The Witness retires.

Lieutenant-Colonel Adams of his Majesty's 25th Dragoons, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you deputed by Lieutenant-Colonel Davis, the Officer commanding in Mysore, together with Lieutenant-Colonel Gibbs, to meet two Officers from the Garrison of Seringapatam, at any time during the period stated in the charge?

Answer. I was, on the 14th August.

Judge Advocate. State to the Court, whether you met any Officer from the Fort, when, and what passed?

Answer. I met Lieutenant-Colonel Munro and Captain De Havilland, between 10 and 11 o'clock on the morning of the 14th. Lieutenant-Colonel Gibbs shewed the authority by which we met, from Lieutenant-Colonel Davis, and asked if they had any written authority from Lieutenant-Colonel Bell. Captain De Havilland said, Lieutenant-Colonel Bell did not think it necessary to give them any written authority; but, that he was authorized by Lieutenant-Colonel Bell to state, that he did not consider the authority of Sir George Barlow or Colonel Davis, sufficient to authorize him to give up the Fort of Seringapatam; and that he would deliver it up to none but the Governor General; that he would rather be buried under its ruins than do it, or some words to that effect. I don't recollect the exact words. Captain De Havilland then asked, if we would allow a letter to be sent to the Camp, from Lieutenant-Colonel Bell to the Governor General, to be forwarded by tappal from thence, as there was no tappal from the Fort. Lieutenant-Colonel Gibbs and myself promised, it should be forwarded to the Governor General. I don't recollect any thing further that passed.

The Witness retires.

Lieutenant Grove, H. M. 80th Regiment, a Witness in support of the Prosecution, duly sworn.

The charge is read.

Judge Advocate. Were you, on any day during the month of August, the bearer of a Flag of Truce from Lieutenant-Colonel Davis to the Garrison of Seringapatam?

Answer. I was, on the 13th of August last.

Judge Advocate. Did you get admittance into the Fort?

Answer. I did.

Judge Advocate. For whom did you ask?

Answer. For the Commandant of the Garrison.

Judge Advocate. Who were you introduced to, as Commanding Officer of the Garrison?

Answer. Lieutenant-Colonel Bell.

Judge Advocate. State what passed?

Answer. I was shown up to the room where Lieutenant-Colonel Bell was, by Captain Pearce of the Artillery. I delivered to Lieutenant-Colonel Bell a letter, which I had received from Lieutenant-Colonel Gibbs. On delivering the letter to Lieutenant-Colonel Bell, he made an observation, that he wished it were in a better cause.—He stated, that he had written to Colonel Davis frequently, and that he had never deigned to answer him; and that he had particularly requested Colonel Davis to withdraw the troops, until an answer from Lord Minto had arrived, relative to some paper that had been sent to him.—Colonel Bell then said, it appeared to him, as if H. M. or the King's troops wished to take possession of the country. I answered him, that His Majesty's troops were loyal subjects, or words to that effect; and that I thought it an extreme odd thing for him to state to me. I had no more conversation with Lieutenant-Colonel Bell, that I recollect.

Judge Advocate. Do you know, whether any of the bridges on the island were in any way damaged or broke?

Answer. I do.—I know, that both the Bangalore and Mysore bridges were broke; the Bangalore was broken down the day I arrived. I passed over on a platform. I cannot say, on what day the Mysore bridge was broke down.

The Witness retires.

Judge Advocate. I now submit to the Court two letters, under date the 15th and 17th of August, addressed by Lieutenant-Colonel Bell to the Right Honorable Lord Minto.

They are read, admitted, and acknowledged by the Prisoner; and, agreable to his wish, the Papers alluded to therein, are also inserted, except the returns.

Seringapatam ; August 15, 1809.

MY LORD ;

" Since I had the honor to address your Lordship on the 12th instant, I received a letter from Lieutenant-Colonel Gibbs, of which No. 1 enclosed is a copy.—The note alluded to therein, was one sent in by the Field Officer of the day, on the morning of the 11th, soliciting a conference with the Officer Commanding the force, which had encamped under the guns of the Island ; but which had not then been listened to.

" Although the movement of that force several miles off, did away the immediate object of the conference, I thought it expedient, that two Officers should meet those sent by Colonel Davis, as well to inform the Officers of that force, of my intention to maintain this Garrison until I should be honored by your Lordship's commands, as to explain why their camp had been fired on, the night of the 11th, and to assure those Officers of my earnest wish that no blood should be spilt.

" The Officers selected for this meeting by Colonel Davis, were Lieutenant-Colonel Gibbs of His Majesty's 59th, and Lieutenant-Colonel Adams of His Majesty's 25th Light Dragoons ; those by this Garrison, were Lieutenant-Colonel Munro of the 2d Battalion 15th Native Infantry, and Captain De Havilland of the Engineers.

" In the interim, the Officers of the corps lately routed had drawn up a statement, of the unfortunate occurrences before related to your Lordship, as seen from the walls of the Garrison ; which paper was given to Lieutenant-Colonels Gibbs and Adams ;—and Lieut.-Col. Gibbs, who commanded the European troops on that occasion, returned a statement of his own, which he signed and pledged his honor to. Copies of these two papers are here inclosed, for your Lordship's consideration ; and although, at a first view, they do not appear to coincide exactly, it may

be taken for granted, that the intentions of both parties were, not to give the *first blow*; nor will it perhaps ever be determined, which actually did. It may be a question, whether what Mr. Jeffreys heard, in a scene of such confusion was, *to fire*, or, *not to fire!*—at the same time Mr. Jeffreys' wound stands in evidence; but he might have received that wound *accidentally*; either from the Sepoys, or from *Purneah's* people! One thing is however certain, that, had the Europeans *not appeared*, the *Silledar* horse would *not* have successfully cut in upon the Battalions.—It may also be added, that it is almost impossible, that two armed forces should ever come in contact, without striking a blow, however willing they may be to avoid it; particularly, when almost under the guns of a garrison, which, under every circumstance, was the most improper place to attempt stopping the progress of those corps.—I have before lamented this catastrophe; but I hope, whatever may have been the views of the Madras Government, it was not to see the blood of *any* of the troops shed; and that a repetition of such scenes will never occur.

"I shall add, that, at the same time Lieutenant-Colonels Gibbs and Adams have been informed of my determination, they have been impressed with my wish not to spill blood; and I hope, that, as far as it may lay in the power of those Officers to prevent it, no aggression will be offered by that force, until your Excellency's orders have been received. The Mysoreans, on the other side, still continue their preparations for an attack; but, I trust, my firm resistance in this instance, will prove a lesson to them, never to attempt it again; and will shew them, that, even in its dilapidated state, Seringapatam is not to be taken by a Native power from a competent British Garrison. I need not awaken your Excellency to the consequences of my being disappointed in this expectation of holding out.—This Fort once taken by them, the Mysoreans would never hesitate *attempting* its capture again, whenever it suited their purpose; and it is possible, that, with the confidence thus obtained, they might be successful, whatever was done to the fortification.

It is not easy for me to express my solicitude for your Excellency's arrival, on that account in particular.

I have the honor to inclose, for your Lordship's information, a return of the details of the 1st, 8th and 1st, 15th Native Infantry, which have made their way into this Garrison, and copies of my former communications. It is needless for me, here, to repeat, that my reason for addressing your Lordship direct, is, Colonel Davis having declined any further correspondence with me.

"I have the honor to be, my Lord, your Lordship's most obedient and humble servant,"

(Signed) J. BELL, *Lieutenant-Colonel, Senior Officer.*

To His Excellency The Right Honorable Gilbert Lord Minto,

Governor General, &c. &c.
Fort St. George.

"We, the Officers of the 1st, 8th, and 1st, 15th, having heard, that a gross misrepresentation of the affair of the 11th has been circulated, conceive it proper to make a full statement of facts.

"On our march from Chittledroog to this place, we fell in with a large body of Poorneah's horse; who said, they had orders to prevent our farther progress; but, as our determination was fixed to reach this place, we told them, plainly and clearly, what the consequences would be, if they attempted to stop us;—they assured us, in return, that they did not wish to have recourse to hostile measures; their actions too, shews evidently they did not; although they certainly remained near us constantly. On the morning of the 3d day, after first falling in with them, and within sight of Seringapatam, just as the corps had passed a little village beyond the French rocks, they cut in upon our baggage, and wounded some people, without the smallest provocation on our side: upon which, we instantly prepared for our own defence, and to get into Seringapatam as soon as possible.—From this time, till within a mile or two of the above place, we were constantly fired upon by the horsemen; which, of course, was returned. We had now every favorable prospect of reaching Seringapatam without much loss (excepting the baggage.) when the 25th Dragoons shewed themselves on the rising ground. Immediately, some of these Officers were

seen to join a large body of horse on our left; and, after a short conference, galloped off to their own Regt.: when the Horse and Dragoons immediately poured down on our rear. Very shortly before this, Lieutenant Walker held out a white flag, and approached an Officer of Dragoons, who seemed to come forward to meet him, but without any flag, that we could see. However, before they could come together, the Dragoon Officer made off, and joined the party of the enemy in the rear; consisting of Poorneah's Horse, and the 25th Dragoons; when they instantly commenced cutting up our men, who were by this time completely exhausted with fatigue, altho' they still kept up a light fire on the Horse. The Dragoons were never fired upon, till they joined the Horse, and were in the act of hostility.

(Signed,)

E. Edwards, Captain, 1st, 8th N. I.
H. Degraves, Lieutenant.
H. Swain, Lieutenant and Adjutant.
Charles Walker.
F. K. Aiskill, Captain 15th.
W. Eyles, Ensign.
D. Carstairs, Lieutenant.
W. George Page, Lieutenant.
A. Denny, Lieutenant.
J Berry, Ensign.
E. Craster, Ensign.
E. T. Hebgame, Ensign.
C. Snell, Ensign.

A true copy.

Seringapatam, 14th *Aug*. 1809.
(Signed) G. CADELL, *Town Major*.

Lieutenant-Colonel Gibb's Narrative.

At about eleven o'clock on the 11th instant, I went forward with the advances; consisting of a squadron of Dragoons, the Light Company of H. M. 59th Regiment, and a six pounder, with a determined resolution of avoiding bloodshed, if possible; that, on seeing the columns pressed and harrassed by Purneah's Horse, I pressed forward; but was stopped by a very deep water course. I then directed Major Carden to go down to the Fort, with 2 squa-

drons, one having since joined, and, if possible, overtake the column; directing Lieut. Jeffries to push on with a white flag, to inform the Officers commanding those corps, that I could not suffer them to proceed to Seringapatam, but only asked of them to return to Chittledroog. Major Carden did proceed with the utmost despatch, and Lieutenant Jeffreys reports to me, that, pushing forward with a white flag into the column, the Sepoys *salamed* to him, but that an European Officer ordered some Sepoys to fire, and he, Lieut. Jeffreys, was wounded in the face. Upon this the *Silledar* horse rushed forward, as did the Dragoons, on seeing their Officer wounded.

During this operation, I was myself advancing with the two flank companies of H. M. 59th Regiment, endeavouring to head the column, with the same intention of being preceded by a flag of truce. Finding myself stopped by a deep nullah, impassable for the Infantry, I swam my horse across; but it was too late.

(Signed) S. GIBBS, *Lieut. Col. Comg.*

A true copy,

GEORGE CADELL, *Town Major.*

Seringapatam, August 17, 1809.

To His Excellency, The Right Honorable Gilbert Lord Minto,

Governor General, &c. &c.

Fort St. George.

My Lord;

"I had the honor to address your Lordship on the 14th instant, giving a statement of the affair which happened near this Garrison; in which the 1st Bat. 8th, and 1st Bat. 15th N. I. were routed, and cut up by Poorneah's Horse, and a part of H. M. 25th Light Dragoons; but, owing to the inevitable confusion and the straggling manner in which those corps came in, I was unable to obtain correct returns of them, to forward, with that despatch, for your Excellency's information. I now have the honour to enclose one of each corps; by which it appears, that 937 men, including Native commissioned, and non-commissioned Officers, have escaped from the slaughter of that day, including 171, who were brought in wounded, of which however 3 are since dead, and 5 recovered.

"The men of these corps have been armed and equipped in the best practicable manner under existing circumstances, and are now doing duty in the Garrison; but I am apprehensive, after what has happened, that they will never meet H. M. 25th Light Dragoons on friendly terms.

"I had feared this, and had Col. Davis been pleased to concert with me, I should have stated to him the danger and inexpediency of the measure adopted to arrest the progress of those corps, immediately under the guns of a strong garrison.

"In addition to what I stated to your Excellency in my last letter, as to who had commenced hostilities on that unfortunate day, I beg to observe, as a proof of the aggression having been on the part of the Dragoons, that the Sepoys all complain, that their Officers had forbid their firing; attributing to it, their present sufferings: and further, I have since been informed, that not a man or horse of the Dragoons was hurt on the occasion,—a circumstance which alone shews, that they were not fired on, *by 2 Battalions* of Sepoys, at the onset.

"I also omitted in my former despatch, to state to your Lordship, that the troops of this Garrison were fired upon by the camp, outside, on the morning of the 11th, while their advance was employed against the two Battalions; which encampment might have been readily destroyed by us, had we been disposed to a retaliation.

"I trust, your Excellency will give these particulars your consideration, and that, on your arrival at the Presidency, your Lordship will pursue such measures, as your wisdom may dictate, to restore the minds of the Army to their wonted tranquillity; if it is still possible to accomplish it; which alone can ensure to the British Empire, its Eastern possessions."

I have the honor to be, my Lord,

Your Lordship's most obedient and humble servant,

(Signed) J. BELL, *Lt. Col. Senior Officer.*

The Honorable Mr. Cole is again called into Court, and examined on his former oath.

Judge Advocate. Did you, at any time within the period stated in the charge, send into the Fort of Seringapatam, a letter from the British Resident at Hydrabad?

Answer. I did, on or about the 20th.

Judge Advocate. For what reason ?

Answer. It was a letter, enclosing an address from the Officers of Hydrabad to the Garrison of Seringapatam, informing them, that they had themselves submitted to the authority of Government, and requesting the Officers of Seringapatam to follow their example ; or to that effect.

Judge Advocate. What was the immediate consequence of that letter ?

Answer. The arrival next day, at the Residency, of Captains De Havilland and Cadell, with a flag of truce, to inform us, that the Officers in the Fort were preparing an address, to demonstrate their submission to Government, and requesting that all hostile preparations might be suspended, till the arrival of that address.

The *Judge Advocate* here gives the Witness three papers ; which, the Witness says, he believes to be the papers Colonel Davis received.

They are read, admitted and acknowledged by the Pisoner ; and arer as follows.

Seringapatam, 22*d August* 1809.

To Lieut. Colonel DAVIS,

Commanding the Forces in Mysoor.

Sir ;

" I have the honor to transmit to you, the address and declarations of the Officers of this Garrison, intimated to you yesterday by Captains De Havilland and Cadell, which I request, may be forwarded to his Excellency the Governor General."

I have the honor to be, Sir,

Your most obedient and humble servant,

(Signed) J. BELL, *Lt. Col. Sen. Officer.*

To His Excellency, The Right Honorable Gilbert Lord Minto.

Governor General, &c. &c.

Fort St. George.

My Lord ;

" We the undersigned Officers composing the Garrison of Seringapatam, impressed with a sense of the dangers that threaten the country, and not less actuated by those pure sentiments of loyalty and patriotism we have never

departed from, rejoice at the opportunity now afforded us, to assure your Lordship of those feelings, and convey to your Excellency an unequivocal proof of them.

"We have received, through the Honorable A. H. Cole, acting Resident at Mysore, a communication from Captain Thomas Sydenham, the Resident at Hydrabad, purporting "that our brother Officers composing that force, have come to a resolution of taking no further steps, and have pledged themselves to abide implicitly by your Lordship's decision; relying on your Excellency's justice, wisdom and clemency, and earnestly appealing to your Lordship's generosity to grant them, and those concerned in the late unhappy events, a general amnesty."

"We were induced to refuse our signatures to the Declaration of the 26th July last, from the state of alarm we were then in; occasioned by the manner in which that paper was tendered to us by Lieutenant-Colonel Davis; the various reports then prevalent; and the horrible prospect open to us, of being shortly employed against our brother Officers, many of them our relations.

"We now come forward, to offer to your Excellency, that test of our duty and attachment to our King and country, (from which we have never swerved,) the moment we have learned that we cannot be employed in the manner above-mentioned, so repugnant to humanity, and to the feelings of a British Soldier.—And we now, in imitation of the Officers of the Hydrabad force, rely with confidence upon your Lordship's justice, wisdom and moderation, to grant to us, and to all who have been concerned in the late unhappy events, a general amnesty.

"We have the honor to be, my Lord, your Lordship's most obedient and humble servants,"

Seringapatam, 21st of August 1809."

(Signed)
R. Munro, Lieut. Col. 2d Bat. 15th Regt.
J. W. Freese, Major 1st Bat. Artillery.
Andrew M'Dowell, Major 15th Regiment.
D. C. Kenny, Major 2d Bat. 19th Regt.
W. C. Pearse, Capt. Lieut. 1st Bat. Art.
George Cadell, Captain.
J. Briggs, Lieut. Art.
B. Mackintosh, Lieut. Art.

T. Birt, Lieut. Art.
F. Derville, Lt. Fireworker 1st Bat. Art.
David Scott, Surgeon 1st Bat. Art.
A. P. Russell, Ensign.
A. Bell, Ensign.
H. Stuart, Lt. Fireworker 1st Bat. Art.
A. Crawford, Lt. Fireworker 1st Bat. Art.
D. Carstairs, Lieut. 1st Bat. 8th Regiment.
H. Swain, Lt. & Adj. 1st Bt. 8th Regt N. I.
H. Wahab, Lt. 2d Bat. 19th Regt. N. I.
T. F. De Havilland, S. E.
A. Denny, Lieut. 8th Regt.
C. Bishop, Capt. 2d Bat. 19th Regiment.
James C. Hurdis.
J. H. Jones, Surgeon.
D. Donaldson.
W. Peyton.
J. S. Baker, Lieut. 1st Bat. 8th Regiment.
J. Mansell, Ensign 2d Bat. 19th Regiment.
H. R. King, Ensign 2d Bat. 19th Regiment.
F. K. Aiskill, Captain 15th Regiment.
J. Turner, Captain 15th Regiment.
E. Pateshall, Lieut. 1st Bat. 15th Regiment.
T. Addison, 8th Regiment.
G. Mather, Asst. Surg. 2d Bat. 15th Regiment.
James Hume, Captain.
C. Snell, Ensign 15th Regt.
E. Craster, Ensign 1st Bat. 15th Regt.
E. Edwards, Captain 1st Bat. 8th Regt. N. I.
A. M'Cormick, Ensign 2d Bat. 15th Regt. N. I.
H. R. Cazalet, Ensign 1st Bat. Artillery,
H. Degraves, Lieut. 1st Bat. 8th Reg. N. I.
James Noble, Lt. 2d Bat. 15th Regt. N. I.
C. T. Hibgame, Ensign 1st Bt. 15th Regt. N. I.
W. Eyles, Ensign 1st Bat. 15th Regt.
S. Townsend, Lieut. 2d Bat. 15th Regt.
C. Charlesworth, Ens. 2d Bat. 15th Regt.
J. Napier, Lieut. and Adjt. 2d Bat. 15th Regt.
A. Limond, Captain 15th Regiment.

"We the undersigned Officers of the Honorable Company's service, do, in the most solemn manner, declare

upon our word of honor as British Officers, that we will obey the orders, and support the authority of the Honorable the Governor in Council of Fort St. George, agreeably to the tenor of the commissions, which we hold from that Government."

Seringapatam, 21st August 1809.

Signed)

R. Munro, Lieut. Col. 2d Bat. 15th Regt.
A. M'Dowell, Major 15th Regiment.
T. F. de Havilland, Capt. Lieut. Eng. Sup.
J. W. Freese, Major 1st Battalion Artillery.
D. C. Kenny, Major 2d Bat. 19th Regt.
George Cadell, Captain, T. M.
W. G. Pearse, Captain Lieut. 1st Bat. Art.
J. Clemons, Ensign Artilery.
T. Bird, Lieutenant Artillery.
J. L. Williams, Lieut. 1st Bat. 15th Regt.
J. Briggs, Lieut. Artillery.
G. Mather, Assist. Surg. 2d Bat. 15th Regt.
W. Eyles, Ensign 1st Bat. 15th Regt. N. I.
C. Craster, Ensign 1st Battalion 15th Regt.
S. Crawford, L. F. W. 1st Bat Artillery.
A. Bell, Ensign doing duty with Artillery.
J. Hume, Ensign 2d Bat. 15th Regiment.
H. Wahab, Lt. and Adjt. 2d Bt. 19th Rt. N. I.
C. Bishop, Capt. 2d Bat. 19th Regt. N. I.
W. H. Ridding, Lieut. 2d Bat. 19th Regt.
D. Donaldson, Ensign.
H. R. King, Ensign 2d Bat. 19th Rt. N. I.
L. Addison, Ensign 8th Regt.
J. D. Brown.
J. Scarman, Surgeon.
S. M. Stephenson, Assistant Surgeon.
J. Turner, 15th Regt.
B. Mackintosh, Lieut. Artillery.
A. Limond, Captain.
E. S. Patteshall, Lt. and Act. Adj. 1st, 15th R.
H. Swain, Lt. and Adjt. 1st Bat. 8th Rt. N. I.
S. Townsend, Lieut. 2d Bat. 15th Regt.
A. Denny, Lieut. 1st Battalion 8th Regt.
F. K. Aiskill, Captain 1st Bat. 15th Regt.
C. Charlesworth, Ensign 2d Bat. 15th Regt.

O. Kinnon, Lieutenant 2d Bat. 15th Regt.
R. Rolleston, Lieutenant 2d, 15th.
H. Y. Kent, Lieut. 2d Bat. 15th Regiment.
J. Michael, Lieut. 2d Bat. 1st Regt. N. I.
J. C. Hurdis, Captain 2d Bat. 19th Regt.
J. H. Jones, Surgeon.
W. Peyton, Ensign.
J. H. Baker, Lieutenant 1st Bat. 8th Regt.
S. Mansell, Ensign 19th Native Infantry.
W. H. Loftie, Captain 19th N. I.
C. Simson, Assistant Surgeon.
C. Snell, Ensign 15th Regiment.
J. Napier, Lieut. 15th Regt.
E. Edwards, Captain 1st Bat. 8th Regt.
H. R. Cazalet, Ensign 1st Bat. Artillery.
J. Noble, Lieut. 2d Bat. 15th Regt.
A. M'Cormick, Ensign 15th Regiment.
H. Degraves, Lieut. 1st Bat. 8th Regt.
E. T. Hibgame, Ensign 1st Bat. 15th Regt.

The Witness retires.

Lieutenant Colonel Gibbs is again called into Court.

Judge Advocate. On what day in the month of August last, was the Fort of Seringapatam taken possession of by H. M. troops, and in what manner?

Answer. On the 23d of August, I marched into the Garrison with three hundred men of H. M. 59th Regiment, where I met Colonel Davis, who had taken possession with 3 companies of the 59th Regiment, in the morning.

Judge Advocate. I now close the prosecution, reserving to myself the power of reply, should it be necessary; and the Prisoner being called upon for his defence, requests until Thursday next to prepare it. The Court accordingly adjourns, till 10 o'clock on Thursday morning, the 23d instant.

THURSDAY, THE 23D DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present as before.

The Prisoner being called upon for his defence, states, that, altho' every attention has been paid to the forming of

his defence, it has not yet been prepared, and he therefore requests a further indulgence 'till Tuesday morning. —The Court accordingly adjourns 'till Tuesday morning, the 28th November, at 10 o'clock.

TUESDAY, THE 28TH DAY OF NOVEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present as before.

The Prisoner is called upon for his defence, and submits a request, that his friend, Mr. Marsh, may be permitted to read his defence. The Court is closed; and. this request being taken into consideration, they resolve, as they cannot but look on Mr. Marsh as Counsel, it is contrary to the general usage of Courts Martial.

And the Court being opened, the foregoing is read to the Prisoner, and he is at the same time informed, that any other friend may read his defence.—The Prisoner then submits to the Court, a further request, that he may be allowed an indulgence of two days, to procure some person, capable of performing that duty. The Court is again closed; and, when opened, the Prisoner is informed, that his latter request is complied with. The Court accordingly adjourns till Friday morning, the 1st December, at 10 o'clock.

FRIDAY THE 1ST DAY OF DECEMBER 1809.

The Court met, pursuant to adjournment.

Members all present as before.

The Prisoner being called on for his defence, states to the Court, that Mr. Marsh does not attend as Counsel, but as a friend; and, this point having been ascertained, to the satisfaction of the Court, to be the fact, the Court permit Mr. Marsh to read the defence.

DEFENCE.

MAJOR GENERAL WARDE, AND GENTLEMEN OF THE COURT MARTIAL;

I have looked forward with some impatience to the opportunity which is now afforded me, of making my

defence. I pretend not to that philosophy, which sometimes renders a man, who is conscious of innocence, unmoved under accusation. My life, my honour, and all that is dear to a man, who has hitherto lived without blame or reproach, are involved in its issue.

But there is one circumstance in this proceeding, which is a matter of congratulation. I mean, the revival of Courts Martial, to determine on military accusations. For they afford to the honour and reputation of an Officer a better security, than those secret enquiries, or rather that arbitrary discretion acting without any enquiry at all, to which the most innocent and meritorious individual was not long since exposed, without the means of confronting his accuser, or even of knowing his accusation.

The present proceeding brings with it, this also of consolation and joy; that, whatever solicitudes I may feel, or whatever difficulties I may encounter, I am tried by men, on whom the laws of honour, and the obligations of conscience, impose a duty as binding, and guarded by sanctions equally as sacred, as the solemn oath, which they have taken. *When I look around me and see, who they are, that consitute this tribunal, I know, that I am safe from that proscription, which, a few months back, overhung the Army, and diffused a gloom over public and private life; and which, subverting all the rules of reason and justice, inspired innocence itself with the terrors of guilt.* Before such a Court, therefore, I can feel nothing beyond those anxieties, to which every man must be subject, who has to deliver himself from a charge, affecting his dearest and most important interests.

Referring to the charge, you will perceive, Gentlemen, that it imputes to me the highest of military offences. Nor will you think me unreasonable in demanding, the ordinary privilege of every accused man, that, in proportion to the magnitude of the crime with which he is charged, or the penalties to which it is subject, the evidence against him, should be clear, precise, and uncontradictory: that it should leave no doubt, concerning that, which is the essence of every crime,—the guilty intention, as well as the overt acts, by which that in-

tention is to be inferred. The common-place, but humane maxim, that every man is presumed to be innocent, till the contrary is proved, is not more founded in truth and in equity, than that, which flows from it, as a consequence and a corollary; that the probabilities of innocence are increased, in proportion to the atrocity of the offence. In my own instance, this maxim will be allowed, perhaps, an additional authority; when you throw into the scale, of these rational and humane presumptions, my long, laborious, and faithful service, a character to this moment unimpeached, a rank in the Army too high, and an experience of military duty, too deeply impressed, and too gradually acquired, to render it easy of belief, that, at this period of my life, I should have placed myself at the head of a dangerous and alarming mutiny, against the Government I had so long served with fidelity and honour.

It is not, however, upon presumptions that I will lean. I will rest my defence upon the evidence, and the conclusions which that evidence will enforce on your enlightened minds; challenging only the priviledge, which every upright judicature permits to the accused, of bringing the evidence against him, to the test of a legitimate, but strict and severe inquisition.

And, while you are guided by these rules towards that inference, on which my fate depends, you will, I am sure, consider the intention, with which the acts imputed to me were committed, as a question of paramount importance. The inverse of this proposition, would lead to consequences, as abhorrent from justice, as common sense. Mutiny, without a mutinous intention, is an absurdity in language, as it is in law. To separate the qualities of the act from the intention of the agent, to select for crimination, naked and insulated facts, abstracted from the designs of the heart, or the contemplations of the mind; torn from their context, and stripped of their relations, would confound the eternal and immutable distinctions between right and wrong. But I will not insult your understandings, by topics so clear and indisputable. Acquainted with the world, and its affairs, and knowing, how often it happens, that human nature is thrown into a conflict of duties, and beset by motives of

almost equal, tho' contradictory impulse; I need not apprehend, that you will adopt that rule of judgment, which, in pronouncing upon human actions, excludes all consideration of the difficulties by which they were prompted, or the exigencies out of which they arose. In this respect, I might justly complain of the manner, in which the facts stated in the charge have been urged against me. But the [illegible] of the Prosecutor required the suppression of all, that preceded and produced the dreadful exigency, under which I acted. In this charge, and in the extraordinary address which the Judge Advocate has read to you, the overt acts stand alone, as if they were unaccompanied by any circumstances, to explain, to palliate, or excuse them; or what is of more consequence, by any necessities to urge or authorize them.

I shall hereafter submit to you a few comments on the evidence, which has been adduced against me. I shall extract from that evidence, fairly and without sophistry, the proofs and presumptions of my innocence. I shall state also the testimony I have to produce on my defence. But, in order that the whole of my conduct, connected with the late unhappy events, may stand before you, I shall, in mere justice to myself, take it up from a somewhat earlier stage; that, from the whole series of my acts, the whole series of my intentions may be reflected, as in a mirror, before you. I shall do this with simplicity, but with truth. If it is necessary to shew, that measures, in which I had no concern, tended to produce the unfortunate emergency, in which I was placed, I shall advert to them, as far as my defence requires it. I shall abstain from all further animadversions on them. I shall not question their wisdom, or their expediency. But I shall trace them, as constituting in part the causes, which produced the agitations, errors, and calamities of the late troubled period; as having led to a most unexampled crisis, in the affairs of British India; and generating, with new circumstances, new rules of conduct for those, who had the peace and discipline of the Army at heart, and were anxious to prevent the effusion of blood in civil and domestic warfare.

And here, it is not foreign from the strict law and condition of my defence, to observe; that acts of mutiny

against the state, committed by a man of my standing in the service, would not in common probability have been the offspring of that spirit of combination, and systematic resistance to the Government, which the Judge Advocate stated to have been prevalent in the Army, antecedently to the dates specified in the charge. A mutinous insurrection against the legal authorities, would more probably have been meditated by those, who, having taken an early part in this commotion, had been tinctured with its passions, than by one, who studiously kept aloof from it, by one, who on every occasion, urged the duty of submission to the local Government, wherever his exam le, or remonstrance could influence, and who was wholly disconnected with those, who resented what they deemed the wrongs of the Army. It is out of the ordinary course of belief, that such a man should, on a sudden, belie the whole tenor of his conduct, and forerun the authors of this disturbance, by placing himself at the head of a mutiny; when, in the heats and agitations which produced it, he never in the slightest degree sympathized, or participated. It is fitting therefore, that you should now what was my deportment, prior to the date of these charges; that you may the better see the dispositions and character of the man, who is now dragged as a mutineer before you.

I arrived from England, late in February last. What have generally been considered, as the predisposing causes of this dissension, the quarrel of General Macdowall with Sir George Barlow, and the removal of the Adjutant General, and his Deputy, for issuing the orders of their superior officer, had already taken place. I found, a most unhappy altercation had already begun, between Sir George Barlow and the Company's army.—Of these feelings, I did not partake. I found them indeed too generally diffused, and too deeply impressed, to be within the reach of my remonstrances. But, on every occasion where remonstrance could influence, I uniformly recommended the patient reference of the real or imaginary grievance, to the superintending authority at home. I was told; that, if I was seen at Sir George Barlow's table, I should be disgraced in the eyes of the army, and cut off from all intercourse with my brother Officers.—I dined with Sir George Barlow, notwithstanding this denunciation. I was told;

that if I carried on the common offices of politeness with Colonel Munro, the Quarter Master General, I should be subject to the same penalties. I openly renewed my acquaintance with Colonel Munro. These dissentions, I considered wholly foreign to me. If my mature standing in the army, or habits of ancient friendship and mutual respect, gave any authority to my opinions, or weight to my admonitions, they were not suppressed, or languidly urged, in recommending obedience, peace and discipline. I signed no address, no memorial. Such were the intentions, which I cherished. It is not easy to bring them in regular proof before you. They are seen only by those eyes, to which alone the workings of the human heart are visible. But professing no other purpose, but that of inculcating by advice, and enforcing by example, the necessity of submission and of discipline, it is your province to see, whether in any subsequent passages of my conduct, and even in those, which stand recorded as matters of crimination against me, I have voluntarily turned aside from the paths, on which I set out; and whether even the worst of those acts, which, abstracted from my motives, would give some colour to the accusation, may not be reconciled, upon genuine and legitimate principles of judgement, to the moderation and forbearance, by which I proposed to govern my conduct, as soon as I perceived the agitations of the Army.

I dwell the more anxiously on this topic, because a letter has been put in evidence against me, which I wrote on the 6th of August, to Lieutenant-Colonel Davis; in which I insisted on the uniform moderation of my conduct, and adverted to the order of the 1st of May, as one of the causes, which led to the disorder then prevailing in the Garrison. I do not meddle with the expediency, or justice of that order. But it is a necessary part of my defence, to remind you, that, not only in the Garrison of Seringapatam, but through the whole Army, it had generated, if not sentiments of revolt, a spirit of sullen disobedience, which gradually ripened into resistance; and that resistance was carried on, by means of an extensive combination, animated with all the energies of despair.— *The army saw their most revered and beloved Officers,*

endeared to them by the participation of common service and of common peril, sent by the stroke of a pen, into exile and degradation, without trial or enquiry. At the mercy of informers, whom they could not confront, they were delivered over to the often doubtful chance of vindicating their characters before the Court of Directors, against the weight, authority and influence of the local Government. To many, this was a sentence of death: because, that is a sentence of death, which stripped life of its consolations, and supports. Innocence itself trembled. From the penitent, it cut off the possibility of return. It inflamed the guilty with the violence of despair. It was considered, as a virtual deprivation to the Army, of their right to trial by Court Martial;—a right, given them by a positive Act of Parliament, yet unrepealed, and of which, they could not be divested, without a gross violation of the law. It was considered, (with what justice, is hereafter to be determined,) that the sending Officers to England, who had not been judicially cashiered, was a power, which was not sanctioned by any of the acts for the regulation of our Governments in India, and which was contrary to the spirit of all of them. They saw, in the fate of others, their own fortunes and reputations laid prostrate at the feet of spies and informers; who are always the meanest, the lowest, and most abandoned of God's creatures.

If the opposition to the local Government, had been confined to the walls of Seringapatam, and had manifested itself in no other part of the army, I should not perhaps be entitled to any benefit from this topic.—But, if no portion of this immense establishment was uninfected, the difficulties I had to contend with, and the embarrassment into which I was thrown, ought not, and, I trust, will not, be excluded from your consideration.—Let me observe, that the key of my conduct, in every part of this transaction, was the great peril before my eyes, which I was anxious to avert. I steered myself by this course. I endeavoured to discharge my duty to my Sovereign, and my honorable employers, by averting from this part of the Empire, the most portentous evils, by which it was ever threatened.

Whatever discontent was produced by this order, as I insisted in the letter now in proof, it received from me, neither an helping hand, nor an encouraging voice. Then, and to the very last, I felt no anxiety, but for the peace and discipline of the army. It were an endless task, to enumerate the various irritations and discontents, which, diverging as it were from different points, at length terminated in the result, which forms the subject of these proceedings. The memorable business at Masulipatam, which has been slightly alluded to in the course of the evidence, is a matter of perfect notoriety. *Whether the measures were wholesome or otherwise, I must repeat, is a question, with which I do not interfere.—It is sufficient, that they were causes, adequate to the production of those unhappy effects, which every wise man foresaw, and every good man must regret.* I am almost tired of wading in these waters of bitterness. I cannot however forbear to touch on the measure of tho 26th July at the Mount; because, by turning to the evidence of Major M'Dowall, you will observe, that, it connects itself with the subject of this enquiry. It is proved, that that measure, which was neither more nor less, than that of seizing the Officers of the Native corps by surprize, and separating them from their corps, on their refusal to sign a test, had contributed to the agitation in the Garrison; an agitation, as he has distinctly proved, not confined to the Europeans, but shewed by the Native corps of the Garrison. I advert to that measure at present, only as a link in the chain of causes, which impelled those dreadful necessities; for having encountered which, according to the best of my judgment, I stand now charged as a mutineer before you.

I have thus deemed it a justice, which I owed myeslf on this awful occasion, to impress on your minds, that, amidst the increasing agitations of the Army, I kept uniformly aloof from all league and combination against the Government. By example, by authority, by entreaties, I endeavoured to appease the minds of those, over whom I had the slightest influence. Not a single document or fact has been brought forward to shew, that, prior to the date of these charges, I shared in the discontents of the Army, or took any part in the expression of them, by signing any of

the various addresses & memorials, in which the sentiments of the Army were circulated. I mention the circumstance, to shew the improbability of that sudden transition of conduct, which must be imputed to me, if the allegations of this charge are believed. It is irreconcileable to the ordinary motives of human action, that a man, who, down to so late a period, had abstained from all active participation in the proceedings of the public body to which he belonged, and who does not appear by any act or expression to have caught the contagion of their passions, should suddenly place himself at the head of the mutiny, you are now investigating.—A mutiny against the Government, would have advanced gradually, and not have jumped suddenly from the most passive submission to the most complete resistance.

Having made these preliminary observations, the length of which will find its apology in the serious character of these charges, and the duty I owe myself of resorting to every rightful topic of vindication; I shall now proceed to show, that the evidence for the prosecution has not only left the charge of mutiny unsubstantiated, but that it completely negatives and contradicts it; claiming, only, that enlarged and liberal interpretation, which every candid mind must be disposed to put upon acts, considered in reference to the necessities, by which they were impelled, and the spirit and intention from which they proceeded. I shall endeavour to do this, according to the course the Prosecutor has taken, and under the distinct heads, into which the charge is divisible; at the same time, urging those reasonings and those statements, which are material to my defence.

You will observe, that I am charged with having headed "A most dangerous and alarming mutiny and sedition" which took place within a specified period. And during that period, three specific overt acts are charged to have been committed, as illustrative of the mutiny which I had headed and joined;—the seizing of the public treasure; the firing on the troops; and the refusal to deliver up the Garrison to the proper authorities. You will perceive, that, to substantiate this charge against me, my active participation and concurrence in the alledged mutiny must be established. I am not charged

here, for not having taken prudent measures to quell a sedition carried on by others, or for not having prevented acts in which I did not myself concur. But it is of the essence of the crime imputed to me, that my heart and soul were engaged in the mutiny, and in the mutinous acts by which it is manifested. In proving, therefore, such a charge, the grand and presiding principle of all criminal jurisprudence, and which, I am sure, is present to your minds, will secure me from the effect of evidence, which is only applicable to others. I have studiously abstained from interposing objections, when this sort of testimony was adduced. For I was well aware, that, whilst the Court evinced an honorable and laudable solicitude to omit no enquiry, how remote soever in its application, that tended to elucidate these transactions, it would have looked as if I had been willing, by objections, to suppress, or shut out important and relevant testimony. The Court will, however, do me the justice to acknowledge, that I have given no interruption to the enquiry, even where the proof has not exactly corresponded with the rules of evidence. I have thought it beneath me, to rest my defence, on the mere defect of proof. I have neither knowingly withheld or hesitated, to admit, any document that was necessary to elucidate the subject; looking for my refuge, not in the weakness of the Prosecutor's proof, but in the strength of my own innocence.

It is at the same time obvious, that I am called on, not to defend others, but myself. I am answerable only for my own acts, or for those of others in which I participated. But in order to connect me with this commotion, as its head and its origin, a great deal of evidence is gone into, of which the object was to show my concurrence and privity in what was transacted, but the result of which has been only that of implicating others, and, I am sorry to say, of recording on the proceedings, matters which may in some sort affect your judgments, with regard to those over whom charges are depending. But, it is with triumph that I beg you to review the evidence, which applies to that part of the subject; and first to that, which has been stated by Captain Webster, and Lieutenant Beaumont. The

Prosecutor seemed desirous of extracting from these Gentlemen, a variety of trivial circumstances; but in particular, all or some of the following facts; as indications of a mutinous and seditious mind, at that early stage of the transaction:—that, in not attending at Colonel Davis's, with the other Officers, on the 30th, I disobeyed the orders of that Officer; that I ordered, or was privy to, or concurred in the forcible restraint laid on his person; and that I was a member of a committee, who, it seems, till the 6th of August, exercised military power in the Garrison, or at least checked and controuled it. See, whether any of these facts have been proved: or, rather see, whether they are not absolutely negatived.

With respect to the orders (contained in Captain Webster's letter of the 30th) of Colonel Davis, the Court will see, that I carried them into execution without hesitation. The object of assembling them has been already explained, by what has been stated to have taken place at the interview I so[illegible]. It was to admonish them to return to their duty, and not to believe the report which had agitated the Garrison, as to a meditated seizure of their persons, by the aid of the Mysore troops. And, here it is to be observed, that the ostensible and avowed purpose of calling such a meeting, from the very nature of it, rendered my presence unnecessary. Had I attended there, I should have virtually admitted, what I here solemnly deny, that I myself, with the other Officers of the Garrison, was an object of admonition to a return of duty; which, I think, it could not be expected, that any Officer of rank and character, under such circumstances, would have willingly admitted. It is sufficient for me, that I carried the order into effect with the utmost alacrity; and that, in so doing, I willingly and actively contributed with Colonel Davis to the restoration of tranquillity in the Garrison; although, I considered, and trust, I shall be pardoned for considering, that, having transgressed no duty, I needed no admonition to return to it. But, if you attend to the evidence, you will perceive from Captain Webster's statement, that in absenting myself on that occasion, I disobeyed no order whatever; for no order, or message, that could be interpreted into a military order, was given me. It seems,

that, in consequence of the official letter above alluded to, I carried Colonel Davis's requisition immediately into effect, by summoning the Officers, as speedily as the dispersed distances at which they lived, would permit. Colonel Davis, apprehensive lest some agitation might have been created in their minds, concerning the purpose of their being convened, said, that he would dispense with their attendance. I replied, that the Officers were scattered over the Fort, and that many of them lived out of it, as accounting for the delay. Colonel Davis was satisfied with that reply. He had the same apprehension the second time; and again dispensed with their attendance. I strongly urged, however, the propriety of [illegible] waiting upon Colonel Davis; as they had all been assembled and were ready to go. Upon that, Captain Webster observed, that he believed, Colonel Davis expected me to wait upon him with the other Officers. I replied, "I saw no "occasion for it." How is it possible to infer from this intimation, that Colonel Davis had positively ordered my attendance. We had both the same object in view; the restoration of confidence and tranquillity to the Garrison. I gave my fullest aid to Colonel Davis, in the effectuating of that object, by calling them together; and, as it appeared to me, that it would have been counteracted by that alarm and perplexity of mind, which the sudden revocation of the order would have produced, I was solicitous that they should wait on Colonel Davis; and being aware, that the meeting was for the purpose of quieting their alarms, and admonishing them to their duty, my answer was the natural observation of a man, who did not feel the alarm, and had no need of lectures upon duty,— "I see no occasion for it."

But, Gentlemen, what will you think of this, as a matter of crimination against me, when I observe to you, that it was from my own most anxious communications with Col. Davis on that subject, that he became informed of the alarm and uneasiness of the Garrison, and deemed the adoption of some measures requisite to restore tranquillity? But more particularly, a letter, I wrote to that Officer on the 24th July, communicated the agitated state of the Garrison. That letter, and Colonel Davis's acquiescence

in what I proposed, shall be produced to you (if necessary) in evidence. To that measure I gave all the effect I could. I disobeyed no order.

As far as you have hitherto gone along with me, in the transactions of the 30th, I trust, I am not evincing an indecent confidence, when I ask you, what mutinous, or seditious disposition is to be inferred from my acts? I cannot but feel, that I begin my defence with no inauspicious omen, when a circumstance evidently imputed to me as a disobedience of orders, turns out to be the most exact and literal execution of them. Proceed further with me, and enquire, whether there is any particle of evidence, by which you can fairly conclude, that I authorized or knew of, or concurred in, the supposed restraint of Colonel Davis. You will pardon the importunity with which I remind you, that I am in justice only responsible for acts, purely and emphatically my own. Admitting, for the sake of the argument, that Colonel Davis was actually under restraint, what testimony fixes it upon me? Is it that of Captain Webster? Turn to his deposition. It amounts only to this, that he had written an official letter to me, stating that it had come to Colonel Davis's knowledge, that orders had been given at the gates, that no person could pass without authority from me. To this, it seems, I gave no answer. But, in order to make it my act, the Town-Major informed Captain Webster, *that an answer was preparing*, and, 'till that was received, Colonel Davis could not be permitted to leave the Fort; that he, the Town-Major, was going to repeat those orders; that Captain Cadell further said to the Witness, that Colonel Bell requested him not to leave the compound. The most transient reference to such testimony, sufficiently shews it to be of that species, which is of all others the most fallacious and doubtful. It is in strictness nothing more than that, which Captain Webster heard from the Town-Major. But I do not wish it to be rejected on that narrow exception. Let me recal your attention to the state of the Garrison; to the alarm that had gone forth; to the assumption of authority by a committee, of the existence of which I was ignorant; and to the total absorption of my influence and authority. Under such circumstances, you

will find little difficulty, in absolving me from all share or participation in the act of others. You will consider it not wholly improbable, that, to stamp with authenticity their own resolutions, the Officers, who had elected themselves into the overruling power of the Garrison, would use my name, as a mere matter of course, and in furtherance of their own designs. It would, therefore, be highly dangerous, to depart from the course of legitimate evidence. But, in the words attributed to the Town-Major, there is something that seems wholly repugnant to the supposition, either that I had received the letter, or sent any answer to it, or gave any orders upon the subject of it. Captain Cadell says, that an answer was preparing. Is not this more reconcileable to the hypothesis, that a committee were taking the letter into consideration, and were preparing an answer? For, if Captain Cadell came with any authority from me, it is natural to suppose, that I should have delivered him the order at once, either verbally or in writing, instead of taking any time to prepare an answer,—a circumstance which strongly implies, that it was undergoing some consideration from persons who were deliberatively consulting upon it.—All question, however, as to the fact, is silenced by Major Macdowall's deposition, from which it may be easily seen, that I had then no influence over this procedure whatever.—In truth, it should seem, the restraint was rather imaginary, than real; for Colonel Davis himself, yielding to the urgent importunity of the Officers, had acquiesced in their proposal to stay at Seringapatam for a moderate length of time. Waving, however, that topic, Major Macdowall expressly shews, that the restraint of Colonel Davis did not proceed from any order. He says, he called on Colonel Davis on the evening of the 30th, in consequence of having heard he was under some apprehension of being under restraint,, knowing at the time—it was not intended by the Officers of the Garrison, that he should consider himself *under the smallest*. Does this consist with the probability of my having ordered Colonel Davis into restraint? On the contrary, does it not render that fact almost impossible? For, it would be grossly absurd to suppose, that, if I had given such an order, or even been aware of

the circumstance, Major Macdowall would not have gone directly from me, with an order, either to release Colonel Davis, or to quiet his apprehension of being under arrest. The words, "Officers of the Garrison," clearly designate, by whose authority the arrest (if there was any arrest at all) was sanctioned. The same observations will apply with equal force, to that passage of Captain Webster's evidence, in which he states, that Lieutenant-Colonel Munro came, as if with an order from me, stating, that Colonel Davis need not give himself the trouble of going out of his house, or getting into his palanquin. The course, which common sense and reason prescribe as necessary, to trace my agency or participation in this act, is that of showing, in the first place, that I actually issued the order. The default of that preliminary fact cannot be aided by the mere declaration of others, that they acted by my authority. If such evidence, on the most superficial view, did not strike you as dangerous in respect to precedent, and inconclusive in point of fact, I might in vain, by my own solemn declaration, which I make in all sincerity and truth, wholly disavow all privity or concurrence in the restraint of Colonel Davis.

It may be said, however, that I was a member of that committee of Officers, and therefore answerable for its acts; and that the fact is implied from Lieut. Beaumont's statement, of that which Colonel Munro said to him,—namely, that Colonel Bell and the committee of Officers had not yet determined, whether Colonel Davis had permission to go to Mysore. I must again deprecate this loose and imperfect testimony. And yet, that it may not leave the slightest impression on your minds, refer to the minutes of this proceeding, and you will find abundant proof, that I was not a member of that committee, and that in no respect, either by acquiescence or concurrence, I had adopted their acts.

It is to be collected from Mr. Boiswell's statement, that I had complained to him of the extinction of my authority in the Garrison. If, by a harsh and severe rule of reasoning, any man infers a species of acquiescence in that assumption of authority, from my apparent silence on the subject, he has formed but an imperfect conception

of the difficulties, with which I had to struggle. To subdue the agitation by menace, to repress it by power, to read lectures on obedience and submission, might have been efficacious in a less fevered and morbid state of mind, than that, which I had to deal with.—It was impossible to escape. The slightest indication, which I might give of such an intention, would be the total annihilation of that little influence, which remained to me. By securing the confidence of the Officers, I hoped to exercise that influence, (as you will see when you advert to the sentiments breathed in my letters about this period,) to dissuade them from violent and intemperate opposition. Even my faint shadow of authority contributed to the preservation of quiet. Had I leaped from the walls, or escaped by stratagem, I should have been liable to animadversion for an act of doubtful wisdom, whatever might have been the result. I believe, the very attempt would have failed. But, had it succeeded, I am sure, that consequences would have ensued, which would have thrown into comparative insignificance, the serious mischief, which we all deplore. I have disclosed to you the principles of my conduct. If my judgment has erred, the indulgence, which is extended by enlightened minds to human frailty, in new seasons and new difficulties, will not, perhaps, be withheld from mine.

That I was not a member of the committee, will appear from that part of Mr. Casamajor's evidence, in which he tells you, that Mr. Mackintosh had told him, that Colonel Bell had resigned the command to a committee of Officers, and that he was not even privileged to receive a letter. He understood also, that I was not even privileged to receive a letter without the sanction of a committee of Officers, and that he must address them, if he wished to communicate with the authority of the Garrison. This perhaps presents an adequate idea of my authority at this moment, and of my connection with what was then transacting. The implied resignation of my command to the committee, is not indeed accurate; for resignation implies a volition. I had no volition. I yielded to necessities, with honest and sincere intentions. I advert to this part of Mr. Casamajor's evidence, because it illus-

trates a fact which has been adduced against me; I mean, returning the letter enclosing the test on the 31st July, with a private intimation to Colo el Davis, that it was at the peril of my freedom, to receive any public communication. As for tearing up the *envelope*, and the substraction of any paper it contained, I seriously disclaim it.—Captain Bishop, Major Macdowal and Major Freese negative, I think, distinctly my participation in the procedures of the committee.—The former, Captain Bishop, tells you, that he received orders till about the 4th, signed, "Committee." It is impossible not to make these observation. Had I been concerned in it, or even privy to its procedures, would not my name, in common probability, have been signed to their orders, to give them the shew and semblance of anthenticity? For, you see, that, in other instances, my name was pretty freely made use of, where it answered the purpose of the moment Major Freese also states, that the reply to the letter addressed to me by Lieutenant-Colonel Davis and Mr. Cole, was signed by Colonel Munro, Major Macdowall and himself.—I allude to the letter in which those Gentlemen, Colonel Davis and Mr. Cole, with regret and horror conclude, that the Officers intended to oppose Government at all extremities. It seems also, that he nderstood, my reason for not signing it was, that I had already signed the test.

I must beseech you, to attend most minutely to this circumstance.—The letter from the Re idency of the 3d of August, is produced by the Prosecutor, obviously for the purpose of affecting me with notice of its contents, of shewing that I carried on a resistance to the authority of the Government after I received the warnings and denunciations contained in it.—But, my knowledge of the letter or its contents, is a matter to be proved, not to be conjectured. There is not a syllable of evidence, by which it can be traced into my hands. The answer to it was written by the Officers, which of itself furnishes strong ground of conjecture, that I had not seen it. I had signed the test; I had complied with the only order of the Government, or of Colonel Davis, I ever received. The letter therefore did not apply to me. And, when Colonel Davis, in his answer to my letter, com-

panying the actest, with my signature to it, observes to me, on the evening of that day, that his house and heart, and those of Mr. Cole were open to me, it is obvious, that he did not consider me as one of the persons, whom that letter was written to admonish, or to threaten. He would not have opened his heart and house, to a mutineer. He must have considered me nearly in a state of coercion.—The reiterated intimations I had given him, of the extinction of my authority and the agitation of the place, must have impelled him to this conclusion. It is evident therefore, that, down to the 3d of August, he considered I had headed or committed no mutiny. He would have otherwise disdained to accept my signature to a pledge of fidelity, which my conduct must have so loudly belied. You would not very confidently accept from a pirate, a declaration of his reverence for the laws of nations, after he had plundered your vessel; nor a pledge from a robber, of his regard to private property, after he had stripped you of all you had. If it is asked, why, on the receipt of the instructions of Government, did you not call the Officers together, and, by your example and remonstrance, urge them to sign the test; consider, I beseech you, what Major MacDowall has said on that head. He tells you, that, had I ordered the Officers to sign the test, I should not have been obeyed. He might in truth have gone further—he might have told you, as I shall prove hereafter, that, had I given such an order, I should have been in immediate restraint. If I am asked, why did not you, on receiving from Colonel Davis his assurance, that his house and heart were open to you, instantly leave the Garrison, and fly thither for an asylum? My answer, if the question is gravely put to me, is this, had I meditated such an escape, I could not have effected it. There is however another aspect, in which it might be viewed, as a question of duty. To quit my station without an order at such a season, might have been conduct reconcileable rather to personal prudence, than public duty. If however, in this part of my defence, I had to combat with a captious and cavilling tribunal, it might be said 'True, you had no order to quit your station. But how can we believe your own statements of your good intentions, or assent to your

own reasonings, without proof to support them." To such an objection what would be said, when I refer you to one of my letters, written to Colonel Davis on the very third of August, and now in evidence against me, in the postscript of which I tell that Officer, "that I am sorry "to say, what I foretold as to the Officers, has taken "place. I shall remain here as long as I can do any "good, and 'till I receive your orders to the contrary."

This, therefore, is the light, by which my conduct, if it has any thing dubious or problematic in it, ought to be illustrated. My object from the first to the last, was to avert the effusion of blood; to soften, if I could not heal, the irritation; and, by acts of a salutary compromise and moderation, to mitigate the evil that threatened us. Yet, whilst this was the hope that animated, and the impulse that urged me, I would have, instantly and at my peril, obeyed or made an effort to obey any military order to quit the Garrison. The truth is, I received no order whatsoever.

Try me, however, by my acts. I signed the test. I have already shewn, that the attempt to persuade others to have done it would have been hopeless. On the third of August, the man, who stands before you for having, between the 30th July and the 23d of August, headed a mutiny against the Government, gave a solemn pledge of obedience to that Government, against which he is pretended to have rebelled. There may, however, be an insinuation lurking in this very fact, of which it is impossible, that I should be unmindful. It may be whispered, that I signed the test, as a disguise, and in subservience to my real intentions. I wear not, Gentlemen, any more than the best of you, a suit of armour to repel insinuation. I can only appeal in confutation of it to the whole of my life, and the general complexion of my character. Possibly there are amongst you, who may not be ignorant of either. They can best tell, whether, among my habits and dispositions, are to be numbered those of hypocrisy, or deceit, or low cunning, or any of that family of vices. For myself, I can solemnly appeal to him, from whom all truth emanates, that I signed that pledge in the genuine spirit of obedience.

And you, Gentlemen, have one criterion, by which you can estimate the sincerity of this protestation. For, antecedently to this day third day of August, there is no act that can be alledged against me, which does not defy all blame or crimination. If criminal intentions are essential to crime; and, if acts are the interpreters of intentions, when those acts are criminal; it would be a perversion of justice, to deny, that they equally indicate intentions, when they are innocent.—A species of proof, however, has been resorted to in this case, which lawyers call *accumulative*;—that is, an attempt to substantiate the charge, by the accumulation of little facts and petty circumstances. A century and a half has glided away, since that doctrine has expired a natural death. I will not, however, complain of its revival on this occasion; because there must be a penury, material proof against me of when so much idle industry is expended, in dragging up forgotten conversations and straggling expressions, to bear testimony against me. Of this kind, is the very significant fact sworn to by Lieut. Cadenskie, that he heard a noise of guns moved about in a Garrison, in which the guns were ordinarily moved every day; my expressions of "*Mysorean Rascals*," and the singular and whimsical order, it seems, that I gave that Officer, who was on guard at the Bangalore gate, to fire not only on any enemy who might be passing the Bangalore bridge, but on all armed men on the Mysore road, which is at least half a mile distant. He was asked by the Court, whether any persons were present at this conversation? None. This is a kind of testimony, which he, against whom it is tendered, is necessarily unable to contradict. There is, however, so providential a mixture of absurdity in this statement, that the mention and refutation of it, must be one and the same thing. I impute nothing of discredit to the Witness. In seasons of agitation and alarm, the memory is clouded.

I must have wearied the patience of the Court by detaining them so long, on what may be deemed only the preliminary parts of the subject. Observing, however,

that the Prosecutor's object, in overloading the cause with an accumulation of facts, was that of shewing me to have been the first mover of the commotion from its earliest stages; you will excuse the minuteness, with which I have remarked on them. There remains but one circumstance, that requires a comment, before I proceed to answer the several allegations of these charges; I mean, the order which I gave Lieutenant Adamson, to remove the detachment of the 80th.

If you have done me the honor to follow me in the progressive exposition of my conduct, from the 30th July to the 3d August you must do me the justice, of admitting it to be reconcileable to a most earnest anxiety for the peace and tranquillity of the Garrison. You must also have framed a pretty correct notion of the state of things, in which, with a crippled and imperfect authority, I had to exercise what little influence remained to me, in averting the worst of evils. The alarm and consternation had received a dreadful augmentation, from the transactions at Trichinopoly on the 30th, where Lieutenant-Colonel Wilkinson having proposed a signature of the test as a matter of option to the Officers, on their refusal to sign it, had placed them under the closest arrest, with orders to the guard to fire on them, should a rescue have been attempted. Amidst terror, suspicion and mutual distrust, obscure and indefinite reports were in circulation, as you have heard from Major Macdowall, so far back as the 28th of July, that that detachment had been making up cartridges three or four successive nights, as hostile preparations against the Garrison. Whether this was the fact, I do not enquire. It is sufficient for me, that, through the whole Garrison, and in that distempered state of it, it was generally believed. Under such circumstances, I thought, as every rational man would have thought, a mere handful of men were no longer safe within the walls. My motives will be elucidated, by my letter to Colonel Davis on that day, intimating to him the impression which had been made on the Artillery, by the conduct of that detachment, and that I could not be answerable for their safety. And here, it is impossible not to admire the singular fatality,

which has made a meritorious act, suggested by an anxiety for the safety of this detachment, an act of which the avowed must have been the real object,—a matter of accusation against me. No ingenuity can torture this plain and simple procedure into any other than its avowed purpose.—Will it be said, that, being at that time the leader of a mutiny against the Government, I was desirous to remove the King's Soldiers into a place of safety? that, with such designs, and when, in furtherance of them, a mall detachment of 120 or 130 mens might in ten minutes have been disarmed, I requested them to go out as a precaution for their security? By no sophistry can propositions so mutually repugnant to each other, be reconciled.

I shall now proceed to the alledged overt act, of seizing the Public Treasure.—I am spared the necessity of a minute or elaborate answer to this part of the charge; because I have already pointed out my entire disconnection with the proceedings of the Officers, who had taken upon themselves the military authority, at the time when the treasuries of Mr. Casamajor and Mr. Paymaster Smith are stated to have been seized. In so grave an accusation, it is not more the prerogative of an accused man, than the presiding principle of the Judicature before which he stands, to require the acts charged egainst him, to be fully and legitimately proved; and to adhere to known and recognised rules; lest frail and fallible presumptions, or loose or unfounded conjectures may take place of that strict and precise principle of investigation, which leads to judicial truth by the most direct and shortest process. Turn, therefore, to Mr. Casamajor's evidence, and examine, whether any proof is to be collected from it, of my having seized the treasure committed to his charge? Captain Turner said, he acted with Colonel Bell's orders. If what Captain Turner said to the Witness, was adopted as conclusive evidence of my having given the order, of course the act would be mine with all its responsibility. But, waving all exception to the proof; admitting it, if uncontradicted by any other fact, to amount to a fair inference of my having given the order, the very next sentence in Mr. Casamajor's deposition brings forward a circumstance, which plainly shews, that it was not

by my order, that Captain Turner was acting. For, on Mr. Casamajor's beginning the draft of an official letter to Government, stating that it was by my order the treasure was detained, Captain Turner immediately objects to the mention of my name; remarking, that, though he had Colonel Bell's sanction, he had not his permission to say so. I think, this incident must have induced the Court to draw the conclusion, that my name was used for the purpose of the moment. Had I given the order, Mr. Casamajor would, as a mere matter of course have stated that to the Government, without the slightest objection on the part of Captain Turner. Subject to the same observation, is that, which Captain Cadell told Mr. Casamajor, concerning the memorandum, he said, I was making of the reasons for securing the treasure. In a subsequent passage, Mr. Casamajor clearly shews the improbability of my ordering, or even conniving in that transaction. He tells you, that he found I had no command; unauthorised even to receive a letter without the sanction of the committee, to whom all communications, with the authority of the Garrison, must have been addressed. Here then is a complete solution of all doubt upon the subject.—The occupation of the treasure by me, or by my order, remains not only not proved by regular and legal evidence; but there is regular and legal evidence which disproves it.

This brings me to the treasure of Mr. Paymaster Smith. It seems, that Captain De Havilland and Captain Cadell told Mr. Smith, that they were commissioned by a Board of Officers, to require a statement of the coin in his charge. To what extent the fact is to operate against me, I have yet to learn. That Mr. Smith understood from Capt. Cadell, that the guard was placed over his treasury by me, amounts to no more. Nor does Captain Cadell's letter, of the 31st, to Mr. Smith, in which my name is also mentioned, carry it at all further. It does not even approximate to evidence. I confess, Gentlemen, I am astonished at the slender, vague, and uncertain proofs, on which the Prosecutor has attempted to charge me, with the seizing of public treasure. It is true, that Rungapah talks of the conversation I had with him; in the course of which I

said, I would be the Paymaster. But this was on or about the 6th. The treasure, if can be called a seizure, had been seized before, by persons, who, as Mr. Smith himself informs you, had received their commission from the committee of Officers. And Mr. Smith also says, that he received no other answers to the letters he wrote to me; but that a verbal message was brought to him, stating that they would be taken into consideration,—a circumstance clearly indicating, that a deliberation was to be held upon them by the Committee. With the seizure I had nothing to do; and that when you advert to, fact, which almost every Witness conspires to prove, that on the 31st the whole military power was in the hands of those Officers, it will be placed beyond the reach of contradiction. The allegation of the charge is, a seizure of the Public Treasure.—If it appears, therefore, that I did not seize it on the 31st July, I am surely not culpable for merely taking charge of it on the 6th of August. I was influenced to that measure, by every motive of duty and necessity. It was to secure it from depredation, during the absence of the person, to whom the custody of it had been committed; to take care, on my own faith and responsibility, that it should be faithfully disbursed, and applied to the purposes for which it was intended. True, I said to Rungapah, "Your master has run away. This is the cause of all the confusion. I will be the Paymaster." I am sure, that, when you consider the act of seizure as the act of others, (for it has not been shewn to have been mine,) you will not visit me with much harshness of animadversion, for taking care of it, after it had been seized, and appropriating it to the ordinary exigencies of the service. You see, that the Treasure was administered, in every respect, as it had been before; the keys kept by the same servants; the monies disbursed for the King's & Company's uses, as before. Not the smallest subtraction, or misappropriation. I justify this act, as an act of strict duty, and inevitable necessity. The Treasure was to be taken care of, or to be lost. The perso,n to whose custody it had been entrusted, had abdicated his office. I confess, I cannot clearly see, what other procedure my duty to my employers could, under such circumstances, have sug-

gested.—Pay could not have been prudently withheld from the Garrison. Perhaps, it would have been impossible to have put the fidelity of the Sepoys to a more perilous test. And, had I refused to sanction the necessary payments, after the Paymaster had abandoned his function, I might probably have stood before you under different charges,—accused of having betrayed the duty of an Officer, and the interests of the Honorable Company, by measures resulting in the mutiny and insurrection of their Native troops.

If these reasonings are just, I can feel but little apprehension from the other fact brought, as a seizure of Treasure. It was reported, that treasure destined to Seringapatam had been stopped on its way. By what authority? By Peons, who, without any written document whatsoever, gave verbal orders, to take the treasure by a circuitous route to Mysore. Now, there is no evidence to shew, that I ordered the detachment out on that occasion: and you will not supply the absence of proof so material, by conjecture. Yet, were I to admit that I had given the orders, I would rest its vindication on the strict propriety and necessity of securing a Treasure, which had been intercepted without any authority whatsoever. It would be at any time a matter of strict duty, to have taken the necessary steps for its protection, as soon as the Havildar made the report of its having been stopped.

After all, what does this seizure of treasure amount to, in whatever aspect it is considered? Mr. Casamajor's remained secure and untouched. Mr. Smith's regularly disbursed for the exigencies of the service, without which the Honorable Company's troops would have been reduced to famine. The money from the Ceded Districts secured from depredation, (for the stoppage of it without authority is nothing less,) and safely lodged in the place, to which was destined. Not the slightest misappropriation of this treasure, which I am charged with having seized. If, however, the protection and security of the treasure be deemed a criminal seizure in your eyes, turn to the evidence, and you will find, that, from all share and participation in it, I am completely absolved.

You have now travelled with me, to an important date in the series of these transactions. On the 6th of August, it seems, that I was requested by the Officers, to command the Garrison; a fact which unanswerably shews, that before that time I had no command. You will of course deem it probable, that whatever agitations and disorders prevailed before, I am not responsible for them; for any interposition would have been useless and impotent. I have shewn, not by my own uncorroborated statements, but by the evidence actually recorded against me, that I disobeyed no order on the 30th; that I carried the orders I did receive, into speedy and diligent execution; that, in the real, or imaginary restraint of Colonel Davis, I had no share; that I had no concern in the proceedings of the committee; that I had no controul over them. All that my imperfect authority could effect towards the restoration of tranquillity, you will also perceive, that I effected; that, fearful of the safety of a small detachment of one of His Majesty's Regiments, I urged their removal, as a mere matter of precaution; that I did all, that the Government required of me; that I cheerfully gave the proffered pledge of obedience; that, when I returned that pledge with my signature to Colonel Davis, I intimated to him, that, although desirous of staying in the Garrison as long as I could do any good, I would obey any orders he would give me; and that in truth I received no order at all, or even a suggestion sufficient to impose upon me a clear and definite rule of conduct.— Your own conceptions will supply much, of what must be left imperfect in this picture. You may conceive, (some of you may in part have experienced,) the embarrassments, by which I was beset; the jealousy with which I was watched; the conflict of feelings, into which I was thrown, by the very solicitude I felt to discharge my duty. You may imagine a state of things, where the lines that divide duty and disobedience are so faint and shadowy, that from human candour will be demanded its most benignant allowance to human error. If, in such a season, the feet falter, or break and snap asunder some of the nice and minute threads and filaments which entangle them, who is there, that will pronounce a severe condemnation? It is then,

you will look to the intention as the index and criterion of the action. It is then also, that, weighing the difficulties and the perils to be encountered, you will not withhold, when you discern the honor and the rectitude of the heart, that enlarged and liberal discretion, which consists in the prudent choice of evils, in bending,—as it were, beneath the storm,—in the temporary submission to necessities,—in the adaptation of conduct to times and to circumstances.

I shall now consider the only remaining heads of accusation,—the firing on the troops, and the refusal to deliver up the Fort to the proper authorities. See, whether the intentions, which have hitherto animated me, will be found, in this maturer stage of the transaction, to have departed from me.

Another question will perhaps present itself. Whether, in the new and extraordinary combination of circumstances which had arisen, a sound discretion was not conferred upon me, of averting a bloody conflict between fellow soldiers, and fellow citizens, by every means in my power. From what you have already collected concerning the fevered state of the Garrison, the feelings which prevailed, and the passions by which the Officers were animated, you will be enabled to form a faint idea of the difficulties, with which I had to struggle. Could I escape? That was impossible. Had it been possible, could I have deserted my post? It was my maxim of duty, that I was bound to stay, so long as I could be of any use; so long as I could preserve quiet by my remonstrances, my entreaties, and what little of authority remained to me. Had I any order to quit the Garrison? None. Had I received any, I would have made the attempt, though it must have been immediately defeated. I had given an intimation to Colonel Davis, in the letter above alluded to, that I would stay as long as I could do any good, or till I had his orders. His silence implied an acquiescence. He gave me no orders to the contrary. The letter, in which he observes, that the Garrison were determined at all events to oppose the Government, was neither received, or replied to, by me. Could my influence induce the Officers to deliver up the Fort? In the first place, no orders to that effect were ever given. In

the second, the very attempt would have been ridiculous.— Under such circumstances, I resolved, by every expedient within my power, to restore discipline and obedience, and to quiet the exasperations, which might otherwise break out into the most fatal and pernicious measures. It is for this, that I have been dragged hither as a criminal.

With these views I re-assumed the command. I thought, that, in the hands of a man anxiously bent on peace and order and subordination, the controul would be exercised with better chance for the public interests, than in the hands of seventy or eighty. Am I a criminal for having thus thought, and thus acted? Had I declined it, I should have remained within the walls of Seringapatam, a mere prisoner, stripped of all influence to controul, or check, or admonish. Every thinking man must tremble, when he conjectures what would have resulted from such an anarchy.

That these motives animated me, is not my own unsupported assertion. They are to be traced in the uniform language and sentiments of my letters to Colonel Davis, when the military power was exercised by the committee. These letters have been produced, no doubt, to shew, that my intentions were criminal. Review them, and you will find that they warrant no such conclusions. But, amongst these letters, I was not a little astonished, that one to Colonel Davis so late as the 5th of August, did not make its appearance. It would have been an important document; because it would have clearly demonstrated, what intentions I cherished, and with what motives I was influenced on that day. It was written, the day before the revival of my authority. All communications between Colonel Davis and the Garrison, had ceased on the 3d. Large bodies of Mysore troops had appeared in movement. They had cut off the supplies of the Garrison, and had committed other acts of irregularity, by seizing and detaining persons, on their way from or to the Fort. In the total cessation of all intercourse between the Garrison and Mysore, and the suppression of all intelligence from every quarter whatsoever, this circumstance had excited sensations the more

vehement, as it was mysterious and obscure. No man could believe, that it had entered into the head and heart of any British subject, to let loose the troops of a Native power on an English Garrison, and teach a dangerous theory, which might hereafter be practised to the destruction of the Empire. It never was imagined, that such a procedure was authorised by the Government. In the midst of the agitation occasioned by this most mysterious circumstance, I rejoiced, that the Officers who had then the controul of the Garrison, had determined on the most pacific conduct. Under that impression, I wrote the following letter to Colonel Davis, which the Judge Advocate has not yet produced.

"*Seringapatam*, 5*th August*, 1809.

SIR;

"It has been communicated to me, that the Officers of "this Garrison have come to a determination, not to be "the first to commence hostilities. I have therefore "to hope, that they will come round in a few days, "and follow the steps of their brother Officers, rather "than risque the loss of British India."

(Signed) J. BELL, *Lieutenant-Colonel*, *Senior Officer*.

"TO COLONEL DAVIS."

Such, on the 5th day of August, were the expressions of the man, who from the 30th July is said to have been at the head of a dangerous and alarming mutiny. You will, therefore, perceive, if this letter speaks an unambiguous language, that, so late as the 5th, I indulged the hope, that the Officers would follow the steps of their brother Officers, by signing the test; and that, instead of meditating revolt and conspiracy, my heart was occupied with the solicitudes of a man loyal to his King and his country.

With this hope, I rejoiced, that my authority returned to me. How could I predict, that, directing my efforts to these ends, and feeling these solicitudes, I could have been considered as heading a mutiny?

And here, I cannot but lament, that Lieutenant Colonel Davis, should have disdained all consultation with

me, on the measures to be adopted. To the best of my humble talents, and with a loyalty as sincere and unaffected as his own, I would have rendered him my assistance towards the restoration of peace and discipline. But other counsels prevailed. I will boldly assert, that this want of confidence, which was warranted by nothing either in my character or conduct, has been the source of the unfortunate train of events, which you are now investigating.

There was, however, another powerful inducement, to sooth and conciliate the agitations of the Garrison, which was actively alive to my mind. I mean, the expected arrival of Lord Minto. This, combined with other circumstances, will explain many of my letters. The British Empire was endangered by the conflict between the army and Sir George Barlow. The open opposition of the Hydrabad force, (*who, being the leaders and first agitators of these tumults, have been the first objects of amnesty*,) made the danger in my eyes almost gigantic. Cut off from all communication and intelligence, probably it looked as it were larger than it was, through the darkness in which we were kept. It was a time, when a man bent on the restoration of discipline, might be pardoned much wider deviations from duty, than can be urged against me. The magnitude of the stake, might well excuse some errors in the game. Contemplating the extent and size of the peril; the more than dubious policy of employing against British troops a Native ally, naturally jealous of our dominion and disposed to avail itself of every discord among ourselves, which might weaken or undermine our authority; *the conviction, that such a measure could receive no countenance from any Government, which was watchful over the interests of our Indian Empire; the assurance, that such a measure, if adopted by the local Government, would draw down from their country the most tremendous responsibility for the awful trusts they had abused;* but above all, the certainty, that, whatever were my sentiments, the Garrison would be defended to the last drop of blood within its walls, against the assault of the *Mysoreans*;—All these considerations rendered me solicitous, by a temporary policy, to

avert the conflict; to prevent the shedding of civil blood, and to evade a struggle with a Native power, in a cause, in which victory would have been the worst of defeats, and success the most fatal of calamities. For this reason, as I told Colonel Davis, I considered the Fort confided to my charge, and referred to the Supreme Government the decision of a que tion, so wholly new and unprecedented.

But, you will not be at a loss to discover the reasons, and the motives, by which I was influenced. A mere delay was all that I solicited. I knew the inflamed spirit, with which an attempt to take the Garrison would be repelled. I knew that any order I might be inclined to give for its surrender, would be unavailing. I had, therefore, before my eyes the dreadful horrors of a civil war, of which, if the sword was once drawn, I forefaw that my authority would not assuage or restrain the fury. As a man, I felt for the sufferings of man in such a contest.—As a British Officer, I felt for my fellow soldiers, and countrymen, whose blood would have been poured out in an ignominious quarrel by a Native soldiery. I was desirous, therefore, that the sword might remain in its scabbard, not, as I considered, for an indefinite period, but for a slight and inconsiderable interval, 'till the arrival of Lord Minto, who was then hourly expected.

Put yourselves in my situation, and ask, whether, in acting under the influence of such feelings, I am to be condemned as a mutineer? Human conduct is to be tried, not by its dead letter, but its living and active spirit. It was to spare the inevitable effusion of blood, that I wrote the letter of the 6th of August to Colonel Davis; to incline him to forego the attempt to direct the Mysore force against the place, (an attempt of which the success and the failure were equally to be deprecated,) to leave us in a harmless tranquillity for a few days, 'till the determination of Lord Minto was pronounced. From the style of my letters, it will be seen, that the arrival of the Governor General was hourly expected. Cut off from all public intelligence, I knew nothing of the unfortunate delay that had retarded it. I requested Colonel Davis to forward my letter to his Lordship, expecting that it would find him at Madras. Is this a mutinous refusal, *to deliver up the Fort to the proper authorities?*

Under the assurance, that scarcely a day could intervene before Lord Minto's arrival, and almost convinced that he was then at the Presidency, I considered, if I could ward off the evil, for a few hours, or at most a few days, I should act according to the strictest obligations of policy and of duty. The proclamation of Lord Minto, dated the 20th of July, had announced his determination of coming to the Coast; and no other construction could be put upon his resolution, but that he was coming to prevent the consequences of civil warfare; to mediate, to heal, to hear, to conciliate, to redress. His proclamation inspired these hopes; and every countenance, on which gloom and despondency had so long sat, beamed with expectation. These expectations received strength and confidence from the known character and dispositions of his Lordship. *The eyes of all were turned towards a man, who had not learned the art of Government in his office, or surveyed mankind from his desk; but to a man, whose knowledge of human affairs had been enlarged by a British education, and whose mind had been liberalized by British habits of thinking and feeling. From such a man, it was not to be supposed, that, coming professedly for the purpose of enquiry and redress, he would suffer himself to be led by those, whose interest it was to deceive him, or surrender himself into their hands, the instrument of their passions and resentments.* Adverting to the avowed object, for which the Governor General announced his intentions of repairing hither, I considered, that, by delaying a conflict which every good man must have deprecated, I should be acting in literal subservience to his views and inclinations.

But, you will observe, that, to my letter to Colonel Davis, I received no answer. I had no order to deliver up the Garrison. And surely, Gentlemen, when the intentions, with which I acted in an emergency totally new, are taken into con ideration, some doubts might remain, whether an order, an attempt to execute which, would infallibly have led to the sanguinary conflict I hoped to avert, would not have furnished "that new modification," of military duty, which has been applied by high authority to cases of infinitely less moment, than that in which I was obliged

to act. If there is a time, in which a military man may pause and deliberate concerning the execution of an order; if he is ever absolved from the ordinary obligations of obedience, it is when, in the total absence of a rational utility, or an over-ruling necessity, he is called on to deliver up his fellow creatures to slaughter and destruction. *Had I been convinced, that no other purpose was in the contemplation of those, who urged the Garrison to extremities, but that of obtaining for themselves a sort of excuse, in the violent and irregular conduct of the Army; even then, the duty I owed both to God and man would have well excused a reluctance, to become the instrument of so detestable a policy.*

Happily, however, I do not require the aid of such reasonings. I gave no refusal, to deliver up the Fort to the proper authorities. I received no orders to do so. But, it is beside the purpose to talk of refusal; when I knew, that the Officers of the Garrison were determined to defend the Fort against the expected assault of the Mysoreans, to the lost drop of their blood; and that my authority would have been wholly incompetent to restrain the conflict, had it once commenced. What then have I done? I endeavoured, by my letter to Colonel Davis and to Purneah, in the true spirit of a man anxious to avert a most dreadful evil, to dissuade them from the attempt at taking the Garrison, which would inevitably have been opposed with the most determined spirit, and have terminated with mutual loss and bloodshed. This will be the true commentary of my letters to Colonel Davis, and Purneah; as well of those to Lord Minto, from which it will be plainly perceived, that, conceiving that there was already a suspension of the local Government by his Lordship's arrival, I referred myself to the Supreme Government for the line of conduct I was to pursue and stated the measures into which I had been compelled, by the preparations to assault the place, which had excited a determined spirit of resistance in the Officers under my command. This is my offence. *A reference*, not a *resistance*, to the proper authority. Whatever may be my fate, I shall turn to this passage of my life, and review the motives, which

influenced it, with a satisfaction, which no external circumstances can impair and diminish.

I had vainly hoped, that, thus temporizing with a most portentous evil, I should have warded off the event I dreaded. Some allowances are due to my situation. From the first to the last, I was ready, " to obey legal orders," as I professed in my letter to Lord Minto. Colonel Davis treated my communications, with the most sullen disdain. I received no orders. Had any orders been given me, I should have done what little was in my power. I should have made the effort to obey them. In the mean time, entrusted with the safety of a British Garrison, I was anxious only to preserve it from the horrors which threatened it. This was all that I could do. My authority was circumscribed within these bounds. I have before said, that it was wholly incompetent, to effect a surrender of the Garrison.

My hopes, however, were frustrated, by the events of the 11th of August. Of the nature of my authority in such a state of things, you may easily form an estimate, and how far I am criminally responsible for having done that, which would inevitably have been done by others. If it be said, why did you retain the shadow of an authority, which you could not effectually exercise? My answer is, that I retained it, from the conviction, that the estimation in which I was held by the Army in general, (an estimation which it is my pride to have obtained and merited,) would give some weight to my opinion and remonstrances, and that, if I could not wholly subdue the exasperation, I might at least soften and mitigate it. I will now proceed concisely to state the event of the 11th; and, in the simplest statement of it, I trust, you will find my fullest vindication. You will have already observed, that, anxious only for delay, till my reference to the Supreme Government was answered, and intent on the prevention of bloodshed, some preparations were made against the threatened attack of the Mysoreans. When it was found, that European troops were in sight, my solicitude to avoid a conflict was redoubled. I would conceive in imagination the dreadful carnage, which must have ensued, if, by a surprize on the Garrison, or an attempt to pass the bridge,

hostilities had once commenced. I knew, the attempt would have been obstinately resisted. I was anxious, therefore, to evade the evil.

In the mean time, a camp was formed in a position, which not a little perplexed us. If the movement of the European force was hostile, it was difficult to reconcile it to any vulgar notion of military operations, that it should have been planted within range of the guns. On the other hand, it is equally difficult to conjecture, that a Garrison in a state of hostile insurrection against the Civil and Military authorities, should have suffered the encampment to remain without molestation, under the very mouth of their artillery. In the morning of the 11th, two Officers were sent to the camp, to enquire concerning the intentions with which the force had been marched, to intimate the references that had been made to Lord Minto, the imprudent situation in which they were encamped, and to assure them, that the Garrison was in the utmost tranquillity, and had determined most religiously to abstain from every act, which might result in bloodshed, till an answer was received to their application to the Supreme Government. This deputation, after making an ineffectual attempt to be heard, returned to the Garrison. Had this deputation been received, the fatal events of that day would have been averted.

It was about ten o'clock, that a considerable body of Sepoys were discovered to the Northward, advancing towards the Fort. What battalions they were, I did not know. As they were approaching the Fort, we perceived, that they were harrassed and pressed upon in all directions by the Mysore horse. The safety of so large a body of the Honourable Company's Native troops, could not but be a matter of considerable anxiety. By what orders they marched,—whether they marched without any, I was wholly ignorant. We observed, however, shortly afterwards, that a detachment of the king's troops had left the camp, and were advancing with impetuosity towards the Sepoys. *A scene of massacre followed, which it is painful to recal to remembrance. The Dragoons and Purneah's Horse began to cut up the almost defenceless Battalions, who seemed straggling in disorder, and apparently ex-*

hausted with the fatigues of their march. They had still a considerable distance to traverse, before they could reach the Fort. *In the mean time, there seemed every probability, that the whole would have been cut up, before they could come within its protection. The massacre of so numerous a body of troops, every suggestion of humanity, reason and policy called on me to prevent.* No other motive was present to my mind. For this purpose, and animated solely by this impulse, a very few shot were fired from the Garrison; which, although from the distance to which they were sent, could have effected no mischief, by their direction might induce the Dragoons and the Mysore troops, *to desist from the pursuit and slaughter* of the Company's battalions. Happily this effect was produced. Two battalions of Sepoys were almost entirely saved from destruction, by a firing, of which the object was merely to intimidate those *who were pursuing them with carnage.* I cannot see, with what plausibility, this can be urged as a matter of crimination. *I cannot imagine, that any man in cold blood, would have issued from the seat of Government, one of whose high and most sacred trusts is the paternal protection of the Native subjects of India, an order to extirpate so many of God's creatures,* before it could have been known, whether their movement towards the Garrison was criminal or innocent. But I am relieved from all doubt on this head. By the public declaration of Sir George Barlow himself, in a general order of the 30th of August, these very battalions are exempted from blame, and their innocence publicly proclaimed. What then is the inference? If my statement is true, and is proved in evidence, he, who is charged with having fired on the troops of His Majesty and the Rajah, in furtherance of a dangerous and alarming mutiny, discharged a few harmless shot, which had the effect of saving from destruction two innocent battalions of the Company's Army. This is a fact, which will appeal with resistless force to the consciences of all, who know the nature of our Eastern dominion. Such persons need not be told, that it is an empire not of physical force, but of moral ascendancy, and that, among the mys-

terious chains by which it is preserved, the strongest and the most binding is that which is grappled round the heart and the affections of those, whom we govern.

But, if proof is required, to attest how remote the intention of rescuing these battalions was, from that of hostile aggression on the Mysore or the King's troops, it is worth while to observe, that the part of the Garrison, who went out to cover the retreat of the Sepoys, were repeatedly fired on from the troops remaining in the camp; that they did not fire a single shot, although the camp was under the guns of the Fort, and might without any difficulty have been destroyed.

I proceed however, in the melancholy narrative of the 11th of August. The Sepoys, who proved to be parts of the 1st Battalion of the 8th, and the 1st Battalion of the 15th Regiment N. I., for nearly the whole of that day continued to come into the Fort, stripped, plundered, and bleeding. It was found, that about 171 were dreadfully wounded; that about 50 lives had been lost, and, amongst these, many of the unhappy followers. I would describe the wretched spectacles, who presented themselves in the Fort one after the other, during the whole of that day. But I find myself unable to convey to you the faintest picture of its horrors. I dwell upon it, only as it constituted the necessity on which it was deemed requisite for the safety of the Garrison, by firing near the encampment on that night, to remove it from a position which augmented the commotion occasioned by the *cutting up of the* Sepoys.

On this occasion, as it became me, I did all that I could, to restore the confidence of the Native Troops in the Garrison. The feelings excited by the events of the day, had been roused by the dreadful spectacles before their eyes, into a most alarming insubordination. The Sepoys of the battalions who had suffered, cried out, that they had been betrayed by their Officers, who had given them strict orders not to fire a musket at His Majesty's troops. But the agitation was not confined to these Battalions. It had extended itself, through the whole Native force of the Garrison. The cry was, for revenge. They called out in a phrenzy of indignation, to be led out against the Camp. In the mean time, reports were circulated, that basket

boats were constructing to cross the river, and scaling ladders to mount the walls. Such an attempt; from the dispositions of the Officers, and the inflamed temper of the troops, would have ended in a dreadful slaughter. I knew, that my authority could not restrain the fury of feelings, which so many unhappy events had conspired to produce. With the same motives, which in every stage of these transactions continued to influence me, anxious to avert so melancholy a contest, and doubly anxious, from the occurrences of the day, to preserve the lives of the Garrison, and those who were acting against it, I deemed it expedient, to remove the encampment from the singular position it had taken. A few small shells were, therefore, thrown at night, so directed, as to fall on the skirts of the Camp, and warn them of their danger. That there was no other object in firing, is evident from the simple fact itself; that had other feelings influenced me, the whole camp might with little difficulty have been destroyed. This firing, therefore, like the former, was to intimidate, not to destroy; to avert the horrors of a general rising of the Sepoys in the Garrison, and to save the lives of those, who, it seems, were acting against it. If the question be here again interposed, why did you, by remaining as the nominal and ostensible head of the Garrison, incur the responsibility of these transactions? My answer is, again, I could not escape. By remaining there, I was enabled to ward off by delay the most fatal of conflicts. I vindicate this act, with confidence. I have saved the effusion of innocent blood. I stopped an insurrection in the Garrison, the probable consequences of which can be best conjectured by those, who remember the fatal incidents at Vellore. The Natives of Hindostan are meek, and submissive, beyond any other example in national character. But they are not dead to the ordinary impulse of humanity. "If you prick them, they will bleed; if you insult them, they will revenge," They hold their existence by that charter, on which nature has written her unalterable and eternal laws.

The Witnesses will best speak to the perturbation of the Garrison at this alarming period. Women and children did not escape this undistinguishing attack. All that

could awaken the feelings of men, and stir them to retaliation, every minute presented to their eyes.—Some faint conception may be formed of the agitations occasioned on the very spot, where the poor, miserable and mangled victims had suffered, by those which were produced, when the Government account of this day was received in General Orders at Hydrabad. They had nearly proved fatal to the country, and every European in it. For it is a solemn fact, capable of easy proof, that, when those orders were read, in which it was stated, that the whole of the "Rebel force" had been destroyed, the Sepoys of that statiton instigated by their wives and women in camp, turned out armed to cut every European's throat, and, amongs the rest, those of their own Officers. This perturbation was quieted only by the presence of mind of an Officer at that station, who assured them, that the detail published by the Government was unfounded.

It is with satisfaction, that I leave this part of the subject. Whatever may be the event of this trial, the remembrance of that, which is thus imputed to me as a crime, shall never depart from me, but with life itself. When the recent transactions of India are viewed by minds untinctured by local prejudices, and unbiassed by local animosities, whatever becomes of me, the transaction itself will reflect no shame upon my memory.

I have scarcely time to advert to the evidence of Lieutenant Grove. As to the conversation, in which, he says, that I used the violent and absurd expressions, he puts into my mouth, on that occasion, if the utter improbability of it be not a sufficient refutation of it, there are persons, who were present at the time, who will give it a peremptory contradiction. Little observation also is required, as to what Colonel Munro is stated to have said, in the conference of the 14th; in which, it would seem, I had expressed a determination to bury myself in the ruins of the Fort, rather than surrender it.—In truth, I used no such expresssion; nor did I authorise him to use it in my name. From the first to the last, I was unable to surrender the Garrison. I had no choice. Compelled to stay there, I thought I was bound to do

all the good in my power. But I shall shew, that as soon as the moment was arrived, in which my influence could be effectually exerted, to procure a return of obedience and duty, it was not exerted in vain. I shall shew, that, had it not been from my example and remonstrances, the Fort would not to this day, in all probability, have been surrendered.

I have thus gone thro' the whole of this long transaction. If I have wearied you by the length of my defence, my excuse must be suggested by the variety of minute facts, and conversations and expressions, which have been huddled together in support of this accusation. I have shewn, from the first beginning of it, with what spirit I was influenced; that in the proceedings of others, I had no participation; that those for which I am responsible, were not only urged by an imperative necessity, and dictated by the most honorable intentions, but they have averted the most serious calamities.

But even, if errors are imputable to me in such a state of things, are they to be visited on my head as crimes? Is no regard to be had to a situation, in which the best of us might well tremble to be placed? to the embarrassing conflict of opposing duties, to agitation, suspence, hope, fear, and the whole tumult of feelings, which, in such circumstances, might hurl the reason of man from its seat, and deliver over his mind to chaos and distraction? I may surely ask you, to consider the whole of my conduct, and not in detached & broken pasages. Try me by its intentions and its spirit. That is the course of divine justice, which, as far as the frailty of our natures admit, human judicatures ought to imitate.

I have abstained, as far as justice to myself would permit, from all animadversion on the late measures of the local Government, which have terminated in these dissensions. But, it is due to the character of a loyal, high-spirited and honorable Army, to remark, that no fancied oppression or trivial grievance would have driven them into resistance. I am no apologist for revolt. I sympathize with their fortunes, I honor their virtues; but I will not vindicate their excesses. On all occasions,

I have recommended with an honest zeal for their welfare, the most submissive patience. But, it is at the same time not impossible to conceive a state of things, occasioned by the systematic irritation of a public body, which may raise feelings, too strong to be restrained by the laws and obligations of public discipline. When these transactions are reviewed, as they most assuredly will be, by the supreme authority of the British nation, it will be a question worthy their most awful attention, whether the disease might not have been cured by temperance and mildness, without the loss of one life, and without any real diminution of power on the part of Government; whether, instead of being strictly a conflict between the Army and the Government, it is not to be characterized rather as a contest with an individual, who had overstepped the legal limits of the authority, with which he was entrusted. In my defence, I shall establish by evidence the following points. I shall shew, by those who took a part in these proceedings, that, till the 6th of August, the military authority was exercised by the Officers of the Garrison, and that my authority as Senior Officer, in fact, ceased during that time to exist; that, had I been disposed or even attemqted to leave the Garrison within the dates specified in the charges, it would have been wholly inpracticable; that, had I attempted to surrender the Garrison, at any time within those dates, the attempt would have been equally unavailing; that the firing on the 11th, was urged, as a matter of strict necessity, by the conduct of the Native troops on that day and the inflamed state of the Garrison; that there would have been a rising amongst those troops in the Garrison, had not that measure been adopted to quiet their feelings; that, when the detachment went out to cover the Chittledroog battalions, they abstained from all retaliation, in pursuance of their strict instructions to avoid any thing that might lead to bloodshed, though they had it in their power to destroy the camp; that the Chittledroog Battalions, whom Sir G. Barlow exempts from all blame, were saved by the firing on the 11th, and brought within the protection of the Fort; that, on the 20th August, when the Hydrabad letter arrived, I gladly availed myself of that opportunity of surrendering the Garrison; and that, had it not been for my example and influence, the Fort would not have been delivered up.

I shall call no Witnesses to my character. I trust, that I need none. I will not even refer to the public recorded thanks, which I have more than once received for my services from different Governments. The testimonies of my conduct are to be found, in the whole of a life dedicated to the service of my country. I shall not remind you of the long, and I hope, not inglorious career in the service, through which I have passed. If, as I have been day after day, ignominiously marched across this very spot, from the place of my confinement, to that of my trial, and called on to defend myself against the worst of charges; many of those recollections awaken themselves in my mind, which sometimes embitter the present by recalling the past; they will not appear unnatural. For, it cannot but have occured to me, as no light visitation of that providence, who humbles us with unforeseen vicissitudes, that, on this very spot, in which I have more than once exposed my life for the preservation of the British Power in India, it should now be endangered by an accusation of having attempted to destroy it.

I might here advert to the length of my confinement, which has been embittered by many needless severities. This might be well considered, as a punishment more than equal to any error, or even any offence I have committed. I forbear, however, from dwelling on the subject.

But I repose with confidence on your justice. You are emphatically a Court of honor. I am convinced, that neither the awe of power, nor the blandishments of hope, nor the allurements of interest, will divert you from the severest rectitude of judgment on this awful occasion. I know, that, disdaining those prejudices, and subduing those animosities, which sometimes bring a man to his trial with anticipated conviction, you will feel, amongst the other obligations of your duty, that of redeeming an innocent man from unjust accusations. With this cheering reflection, I shall close my defence, and thank you for the patience with which you have heard it.

(Signed) J. BELL, *Lieut. Col. Art.*

Major Kenny of the 19*th Regiment Native Infantry, a Witness in support of the Defence, duly sworn.*

The charge is read.

Q. from the Prisoner. Were not the Officers of the Garrison of Seringapatam under the direction of a committee or body of Officers, previous to the 6th of August last?

Answer. Yes.

Question. Was I a member of that committee?

Answer. No.

Question. From your own knowledge of the state of the Garrison, within the dates specified in the charges, was it practicable for me to have left the Fort at any time within those periods?

Answer. To the best of my belief, it was not.

Question. From your knowledge of the state of the Garrison, was it possible for me to effect a surrender of the Garrison, at any time within those days?

Answer. I certainly think not.

Question. From your knowledge of the state of things in that Garrison on the 11th of August, would not the attempt have been made to protect the Chittledroog battalions, however averse I might have been to that measure?

Answer. It is my opinion, that the Garrison would have gone out at all events.

Question. Describe to the Court, the state of things in the Garrison, on the day and night of the 11th, occasioned by the affairs of that day?

Answer. The greatest agitation prevailed in the Garrison;—so much so, that myself and the greater part of the Officers of the corps remained in the barracks all night. I have heard several Natives calling out for revenge, and, as near as I can recollect the words, calling out to be led on to Mysore or the camp.

Question. From your knowledge of the state of things in the Garrison, was not the driving off the encampment from their position on the night of the 11th, a matter of necessity, urged by the irritations and violent conduct of the Native troops?

Answer. I think, it was.

Question. When the detachment went out from the Garrison on the 11th, to cover the Chittledroog battalions, was the detachment fired on, and by whom, and was the firing returned by the detachment?

Answer. The detachment was fired on by the party

eft behind in Colonel Gibbs's camp, and the fire was no returned by the detachment.

Question. Why was it not returned?

Answer. I believe, a wish to prevent the effusion of British blood.

Question. Were you present on the 13th of August last, when any conversation took place between Lieutenant Grove and myself? Did you hear me make use of any such expressions, as I "think the King's troops want to take possession of the country," or words to that effect?

Answer. I was present, and did not certainly hear any expression of the kind made use of.

Question. On the 20th of August last, when the letter from Hydrabad was received in the Garrison, did I not induce and influence the Officers as strongly as I could, to sign the test?

Answer. Yes.

Question. Even after they had signed the test, would the Officers have surrendered the Fort, had it not been for my entreaties and influence? State, whence you derive your knowledge of that fact.

Answer. The night before we marched out, the Officers of the 2d Battalion of the 19th could not be prevailed upon, until Lieutenant-Colonel Bell used his efforts to that effect. I merely speak of the 2d Battalion 19th, as coming more particularly within my own knowledge, having commanded the corps; and indeed, I think, the junior part of the Garrison.

Question. Did not my signing a paper, recommending the Garrison to be given up, induce the Officers to come into that measure?

Answer. Yes.

Question. Was not the receipt of the Hydrabad letter, what induced the Officers to sign the test?

Answer. I think, it was.

Judge Advocate. Did the Sepoys of the 2d Battalion 19th Regiment Native Infantry, reside inside or outside of the Fort, previous to the 30th July last?

Answer. Outside.

Judge Advocate. After that day, where did they reside?

Answer. Within the walls of the Garrison.

Judge Advocate. By whose order?

Answer. I supposed, the Garrison under the influence of the committee. I cannot charge my memory, who gave the order.

Judge Advocate. Was Lieutenant-Colonel Bell aware of the existence of that committee?

Answer. Yes, I waited upon Lieutenant-Colonel Bell with the proceedings of a committee, on the exchange of arms; and I heard him say, he had no influence in the Garrison.

Judge Advocate. Did Lieutenant-Colonel Bell communicate publicly to the Officers of the Garrison, that he had signed the pledge of obedience on the 3d August?

Answer. I cannot charge my memory, that he did.

Judge Advocate. Can you say, whether Lieutenant-Colonel Bell saw a letter addressed to himself and the Officers of the Garrison, by the Honorable Mr. Cole and Lieutenant-Colonel Davis, on the 3d of August?

Answer. I cannot say that he did.

Judge Advocate. Did Lieutenant-Colonel Bell, to your knowledge, take any public means to suppress the agitation in the Garrison?

Answer. Lieutenant-Colonel Bell, on resuming the command of the Garrison, issued an order, prohibiting all meetings of Officers.

Judge Advocate. Did Lieutenant-Colonel Bell, from the 6th of August to the 20th, or previous to the receipt of the letter from Hydrabad, call upon the Officers of the Garrison to accede to the terms of Government?

Answer. I cannot charge my memory, that he did.

Judge Advocate. Had not the letter from Hydrabad been received, would the Fort have been given up?

Answer. I think, not.

Judge Advocate. For what reason did Lieutenant-Colonel Bell agree to deliver up the Fort, on the receipt of this letter from Hydrabad?

Answer. I don't think, it rested with Lieutenant-Colonel Bell. The reason the Officers consented to give up the Garrison, was, that they could not then be called on to spill the blood of their brother Officers.

Judge Advocate. Did the Battalion under your command receive any extra allowances, during the period of the charges?

Answer. Not to my knowledge.

Question from the Court. Did Lieutenant-Colonel Bell endeavour to suppress the meetings of the committee, previous to the 6th August?

Answer. I don't know.

Question. Were you so situated, as to be able to hear all the conversation that passed between Lieutenant-Colonel Bell and Lieutenant Grove, the day the meeting took place; and was it possible, that Lieutenant-Colonel Bell could have made use of the expression alluded to, without your hearing it?

Answer. I sat opposite to Lieutenant-Colonel Bell, and, I do not think it possible, he could have made use of the expression, without my hearing it.

Question. Was any flag of truce sent, on the night the 11th, to the Camp near Seringapatam, previous to th fire being opened on it?

Answer. I do not know.

Question. From your situation in the Garrison, should you not have known it, had such an event taken place?

Answer. It might have been sent without my knowledge, as I remained in my barracks.

The Witness retires.

Lieutenant Napier of the 15th Regt. N. I. a Witness in support of the Defence, duly sworn.

The charge is read.

Question from the Prisoner. Were not the affairs of the Garrison of Seringapatam under the direction of a committee or body of Officers, previous to the 6th of August last?

Answer. They were.

Question. From your own knowledge of the state of the Garrison, within the dates specified in the charges, was it practicable for me to have left the Fort, at any time within those periods?

Answer. I do not think, it was practicable.

Question. From your knowledge of the state of the Garrison, was it possible for me to effect a surrender of the Garrison, at any time within those dates?

Answer. It would have been impossible for Lieutenant Colonel Bell to surrender the Fort, during the time specified.

Question. From your knowledge of the state of things in that Garrison, on the 11th of August, would not the attempt have been made to protect the Chittledroog Battalions, however averse I might have been to that measure?

Answer. It undoubtedly would.

Question. Describe to the Court, the state of things in the Garrison on the day and night of the 11th, occasioned by the affair of that day?

Answer. The Officers and men were both in a dreadful state of agitation;—the men called out loudly, to be led against the Camp or Mysore.

Question. From your knowledge of the state of things in the Garrison, was not the driving off the encampment from their position on the night of the 11th, a matter of necessity, urged by the irritations and violent conduct of the Native troops?

Answer. It certainly was.

Question. When the detachment went out from the Garrison on the 11th, to cover the Chittledroog battalions, was the detachment fired on and by whom, and was the firing returned by the detachment?

Answer. It was fired upon from the European camp; the fire was not returned.

Question. Why was the fire not returned?

Answer. Because it was not the intention of the Garrison or Lieutenant-Colonel Bell, to draw blood, if it could be avoided.

Question. On the 20th of August last, when the letter from Hydrabad was received in the Garrison, did I not induce and influence the Officers, as strongly as I could, to sign the test?

Answer. Lieutenant-Colonel Bell certainly did every thing in his power, to get the Officers to sign the test; there were many objections made to sign it.

Question. Even after they had signed the test, would the Officers have surrendered the Fort, had it not been for my entreaties and influence? State, whence you derive your knowledge of that fact.

Answer. Colonel Bell did every thing in his power, to get the Officers to surrender the Garrison at that time, and was the chief cause of its being given up. There were upwards of twenty Officers at the mess of the 2d Battalion 15th Regiment, the night before the place was given up. Major M'Dowall came into the room, and informed the Officers present, the Fort was to be given up the next morning; the Officers were much annoyed at this, and actually drew out a paper to Lieutenant-Colonel Bell, purporting, that neither Officers nor men would accept the terms of Colonel Davis;—at the time this paper was about to be signed, Lieutenant-Colonel Munro came into the room, and, on the Officers expressing their indignation, that the place should be given up on such terms, he, Lieutenant-Colonel Munro, produced a paper, signed by Colonel Bell, to entreat, that the place might be given up, and that the Officers should take no further steps.—In consequence of this, the intention of signing the paper was given up, and the Officers dispersed.

The Court adjourn-, till 10 o'clock tomorrow morning.

SATURDAY, THE 2D OF DECEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present, as before.

Lieutenant Napier is called before the Court; and, his evidence of yesterday being read over to him, he amends his answer to the Question, relative to the state of the Garrison on the day and night of the 11th, as follows.

After the Battalions had been cut up on the morning of the 11th, I went out to meet the stragglers, as they were coming in. I met a great many dreadfully wounded; they were at that time abusing and blaming their Officers, for not allowing them to stand and fight against the party that attacked them; they also said, that the name of the Battalion, which had been established at the battle of Assaye, was completely gone.

Judge Advocate. Were you a Member of the committee of Officers, which, you say, exercised military authority within the Garrison till the 6th of August?

Answer. No.

Judge Advocate. How did you learn, that such a committee existed?

Answer. I knew it, because there was a Member appointed from the 2d Battalion 15th Regiment.

Judge Advocate. In what manner did this committee exercise military authority?

Answer. They regulated, as we understood, every thing regarding the Garrison.

Judge Advocate. Were the proceedings of the committee communicated to Lieutenant-Colonel Bell?

Answer. I don't know.

Judge Advocate. Did you consider, that Lieutenant-Colonel Bell had no authority in the Garrison?

Answer. I conceived, that the whole authority rested with the committee and the body of Officers.

Judge Advocate. Until what period, was this authority exercised by the committee?

Answer. Until the 6th of August.

Judge Advocate. By what means did Lieutenant-Colonel Bell resume his authority?

Answer. At the request of the whole of the Officers assembled.

Judge Advocate. Had these Officers, previous to this, refused obedience to the Government of Fort S. George?

Answer. They would not sign the test, nor would they quit their corps.

Judge Advocate. Was Lieutenant-Colonel Bell acquainted with this fact?

Answer. I do not know.

Judge Advocate. Did you ever see any of the correspondence of this committee; and do you know, whether Lieutenant-Colonel Bell did ever see any of their resolutions?

Answer. I never saw any correspondence of the committee, that I recollect; and I do not know, that Colonel Bell ever saw any of their resolutions.

Judge Advocate. Was it known to the Garrison, that the Battalions from Chittledroog were marching towards Seringapatam, before they appeared in sight on the morning of the 11th ?

Answer. I heard it rumoured, that they were to be in the next morning.

Judge Advocate Did Colonel Bell, to the best of your knowledge, hear this rumour ?

Answer. I cannot positively say.

Judge Advocate. Did Colonel Bell, previous to the 6th of August, take any means to assert his own authority, and resist the influence of the committee ?

Answer. I do not know that he did ; it would have been useless.

Judge Advocate Did Colonel Bell, previous to the 6th August, assemble the Officers of the Garrison, and, by persuasion, entreaty or any other means, endeavour to induce them to return to their duty, or accept the proffered terms of Government ?

Answer. I don't know, that he ever did ;—it would have been equally useless with the other.

Judge Advocate. Had not the letter from Hydrabad been received, would the Fort have been surrendered ?

Answer. I do not think it would, until the arrival of Lord Minto ;—it might have then been surrendered.

Question from the Court. By whom was the committee appointed ?

Answer. By the Officers of each corps.

Question. By whose or what order was the committee dissolved ?

Answer. By the body of the Officers.

Question. Did not Lieutenant-Colonel Bell issue an order, to dissolve the committee, or forbid the meetings of Officers ?

Answer. He issued an order on a slip of paper, which was sent round to the corps in Garrison, on the 6th, prohibiting all meetings of Officers.

Question. After the 6th of August, when Colonel Bell resumed the command, was his authority uncontrouled, and was he free to act as he thought proper ?

Answer. Colonel Bell's authority was certainly controuled considerably by the body of the Officers, even at that time.

Question. Previous to the arrival of the Battalions from Chittledroog, were any orders given out in the Garrison, to provide for the accommodation of these corps, and, if so, by whom?

Answer. I do not know, that any orders were given out to that effect.

Question. You have stated, that, after Lieutenant-Colonel Bell had resumed the command, his authority was controuled by the body of the Officers; in what manner was it controuled?

Answer. They would not have permitted him to surrender the Fort; and they always took care, to be acquainted with every thing that was passing.

Question. Previous to the receipt of the letter from Hydrabad, did Lieutenant-Colonel Bell ever attempt to surrender the Fort?

Answer. Not that I heard of.

Judge Advocate. Did Lieutenant-Colonel Bell communicate to the Garrison, that he signed the test on the 30th of August?

Answer. He once mentioned it to me, but I cannot recollect the date;—I can only speak as to myself.

Question from the Court. Did he mention this, publicly or privately?

Answer. He mentioned it to me, one day that I called on him at his house. I believe, there was no other person present.

The Witness retires.

Lieutenant Walker of the 8th Regiment N. I., a Witness on the part of the Defence, duly sworn.

The charge is read.

Question from the Prisoner. Were you present with the Chittledroog Battalions, on the 11th of August?

Answer. I was.

Question. Inform the Court, what you know of the occurrences on that day?

Answer. On the 11th of August, between 8 and 9 o'clock, about 10 miles from Seringapatam, our baggage was cut off by the Mysore horse. Some sepoys and followers were wounded. Finding they approached in large bodies upon us, we conceived, it became an act of necessity to take measures for our own defence. We drew up, with our backs to a large nullah, and, as they were continually attempting to charge, we fired two rounds at them, which entirely dispersed them. We then thought it advisable to make the best of our way into Seringapatam. As we were advancing, they made several attempts to charge; but were as often repulsed by a round from the six-pounders. On our nearer approach to Seringapatam, we saw a party of H. M. 25th Dragoons, talking to some of the Mysore horse, who, immediately on perceiving us, went back to the regiment. An Officer advanced, apparently with the desire of having a conference. I went out to meet him. He was at least 300 yards from the Battalions. He galloped off, in a most unaccountable manner, to a party of the Mysore horse in the rear. There was not a single shot fired at him, or at the Europeans,—particular orders having been given to that effect, to all the men of the Battalions. Shortly after, a strong body of H. M. 25th Dragoons charged; as also those of H. M. 59th Regiment marched down in double quick time, and the Mysore horse charged in our rear. Within three miles of Seringapatam, several of our Sepoys, who were not able to keep up with the main body, were most wantonly massacred by a party of H. M. 25th Dragoons and the Mysore horse.

The Court is cleared; and, on being again opened, the following is read and recorded.

Colonel Bell;

You have assigned as a reason for introducing this statement in your defence, that it is necessary to exculpate you from the charge of firing at the King's troops. The Court wish to give you every opportunity, of bringing before them, whatever may be deemed exculpatory evidence; but they cannot deduce, in what manner, evidence to facts, which occurred not within reach of the guns or within view of the Fort, can be of any consequence. They therefore think proper, to object to the evidence about to be

given by Lieutenant Walker, unless it is introductory to any circumstance connected with the firing from the Fort.

The Prisoner submits to the Court, that he only wishes to shew by this statement, that the firing from the Fort saved the remains of the Chittledroog battallions; and the agitations which prevailed, caused the necessity of firing at night, which the business of the morning occasioned.

LIEUTENANT WALKER;

I am directed by the Court, before whom you appear as an evidence, to state to you their opinion, that, in the mode which you give your evidence, pointed disrespect is visible, and the most acrimonious language made use of, to describe facts, which may be told, without any of your own opinions, as to the manner in which those facts occurred, being introduced; and the Court particularly caution you against a repetition of such conduct.

Lieutenant Walker proceeds with his narrative.—The Sepoys being exhausted from fatigue and panic-struck, made the best of their way into the Fort of Seringapatam; when they were in a great measure saved, from the firing of the Garrison. The state of the Garrison was in dreadful alarm, and exasperated at the business of the morning, and the most dreadful consequences were to be expected, had not the firing at night taken place, as the Sepoys were calling out for revenge.

Question. Describe more particularly, what consequences were to be apprehended?

Anwer. The murdering of the Officers at night.

Judge Advocate. Do you know, under what authority, or for what purpose, you marched to Seringapatam?

Answer, There was no particular authority. We marched for the protection of our persons, understanding they were to be seized.

Judge Advocate. Did you or did you not march, in consequence of some communication from Seringapatam, and, if so, of what nature was it?

Answer. From no communication from Seringapatam.

Judge Advocate. Did you communicate with any person or persons in Seringapatam, relative to your intention of marching to that place, or do you know, if any communication was made?

Answer. A communication was made, on our march from Chittledroog to Seringapatam; our prior communications were made to and from Bellary.

Judge Advocate. Can you say, whether Lieutenant-Colonel Bell knew, that you marched to Seringapatam, without orders from the head quarters of the Army?

Answer. I cannot say.

Question from the Court. What reason have you for apprehending, such consequences would have followed, as that of murdering the Officers at night?

Answer. From the dreadful state of agitation, that prevailed in the Fort, and the Sepoys calling out for revenge against the Europeans in camp. Had not they been led out, or the firing at night taken place, I considered, from the state of alarm they were in, that they would have revenged themselves on their own Officers.

Question. Did they threaten to murder their Officers, in case the camp was not fired upon?

Answer. No.

Question. Before orders were given for the Fort to fire on the British camp, did Lieutenant-Colonel Bell take any steps, to allay the ferment and irritation visible among the Native troops?

Answer. I do not know.

Question. For what purpose, were those guns with the Battalions marching from Chittledroog, and by whose orders were those guns attached to them?

Answer. For our own protection. Who gave the orders, I don't know.

Judge Advocate. Was any letter or communication from the Fort of Seringapatam, received during the march towards that place, and, if so, what was the purport of it?

Answer. There was a note received, the purport of which was, to march as expeditiously as possible into Seringapatam.

Judge Advocate. By whom was that note written; and was it signed by the committee, or an individual?

Answer. There were initials to the note, and it was supposed to be written by Captain Turner.

Judge Advocate. Do you recollect the date of it, or about what time?

Answer. I do not recollect the date; but we received it at Serah about the 9th.

Question from the Court. What were the initials signed to that note?

Answer. I do not recollect, what the initials were.

Judge Advocate. Did the Officers of the Chittledroog corps, by any communication with the Fort of Seringapatatam, intimate to the Officers of that Garrison, that they meant to throw themselves into that Fort for protection?

Answer. To the best of my recollection, we did.

Question from the Court. At what time was that communication made; and was it written from Chittledroog, or subsequent to the march?

Answer. I do not recollect, when or where it was written.

The Witness retires.

Captain Edwards of the 8th Regiment N. I., a Witness on the part of the Defence, duly sworn.

The charge is read.

Question from the Prisoner. Were you present with the Chittledroog battalions, on the 11th of August?

Answer. Yes.

Question. Inform the Court, what you know of the occurrences on that day.

Answer. On the morning of the 11th, about 9 o'clock, the baggage of the Battalions was cut off by the Mysore horse; and some Sepoys, and followers were wounded. The Mysore horse gallopéd up to the Battalions, with an apparent intention of attacking them. Seeing the Battalions prepared, they desisted from charging them, but kept up a fire, till the Battalions arrived near the Bungalow; then, in conjunction with a part of the 25th Dragoons and a part of the 59th Regt., advanced to attack the Battalions. Some guns were fired by the Europeans.—On their approach, I urged Capt. Mackintosh to take post in an enclosed ground, in the rear of a village in front of us. He at that time sent off Lieutenant Walker, with a flag of truce to the troops advancing against him. The Europeans still kept advancing, as the Sepoys were ordered not to fire upon the Europeans. On the nearer approach of the Europeans, the Sepoys advanced towards a

nullah, in the rear of the bungalow. The Mysore horse and Europeans had cut in, in the rear of the Battalions; and the 1st Battalion 8th Regiment, and a part of the 1st Battalion 15th, flew to the nullah and crossed it;—many of them lost their arms in the nullah. There were some guns fired from the Fort, before they crossed the nullah, which put a stop to the pursuit. The greater part of the Battalions got into the Garrison of Seringapatam, in a highly exasperated state, at the cruelties that had been committed by the Mysore horse and the 25th Dragoons. The men continued in a highly exasperated state, on the night of the 11th. The firing upon the encampment having taken place, the men were somewhat appeased.

Question. Did you hear any particular expressions from the Sepoys, during the day or night of the 11th?

Answer. They were highly dissatisfied, at the Officers not having ordered them to fire; and talked of nothing but revenge.

Judge Advocate. Where was the first Battalion 8th Regiment stationed, previous to their arrival at Chittledroog?

Answer. At Bednore.

Judge Advocate. Was any communication made, during the march from Bednore, till you arrived at Seringapatam, of your intention to throw yourselves into that Fortress for protection?

Answer. No, not to my knowledge.

Judge Advocate. Was any communication received from Seringapatam, from the period you left Bednore till your arrival at the former place?

Answer. No, not to my knowledge.

Question from the Court. Was it ever explained to the Sepoys, they were acting in opposition to the Government?

Answer. Never.

The Witness retires; and the Prisoner delivers to the Court the General Order of the 30th August, which is read and admitted.

Fort St. George, the 30th August 1809.

GENERAL ORDERS, BY THE HONORABLE THE GOVERNOR IN COUNCIL.

A report has been received by the Governor in Council, from the Officer Commanding in Mysore; stating, that the troops which composed the Garrison of Seringapatam, surrendered at discretion on the 23d instant, delivered up their arms, and proceeded to the stations in Mysore, allotted for their residence. It has been ascertained, that the Native Troops, which proceeded from Chittledroog, were entirely ignorant of the real designs of their Officers, and marched, under an impression produced by their Officers, that his Highness the Rajah of Mysore had commenced hostilities against the British Government, and attacked the Fort of Seringapatam. The appearance of the Mysore horse confirmed this opinion in the minds of those troops; and, when they found in the contest before Seringapatam, which was begun by the Mysore horse, that the British force acted against them, they abandoned their arms, and endeavoured to save their lives by flight. It appears, that a considerable number escaped into the Fort of Seringapatam. This explanation is due to the general conduct of the Native Troops under this Government; who have, in circumstances of peculiar difficulty, manifested a fidelity and attachment to the state, that reflects great honor on their character. The Governor in Council was persuaded, that it was only by deceiving the Native Troops, that they could be misled from their duty; and their conduct in every situation, when they had an opportunity of being made acquainted with the true situation of affairs, justifies the high opinion, which he entertained of their zeal and fidelity, and entitles them to the approbation and thanks of Government. The Governor in Council greatly ascribes the early termination of the disturbances in Mysore, to the vigilance, energy and talents of the acting Resident, the Honorable Arthur Cole, and the Commanding Officer in Mysore, Lieutenant-Colonel Davis; and he judges it proper, again to express his high sense, of the important services which they have rendered to the interests of their country in India.

By order of the Honorable the Governor in Council,
(Signed) A. FALCONAR,
Chief Sec. to Govt.

By order of Major-General Gowdie, Commanding the Army.

(Signed) F. N. BALMAIN,
Assistant Adjutant General.

The Prisoner also gives in a copy of this letter, dated 5th of August; which is read and admitted by the Judge Advocate, as being a true copy.

Seringapatam, 5th August, 1809.

SIR;

It has been communicated to me, that the Board of Officers, who controul in this Garrison, have come to the determination, not to be the first aggressors on the present alarming crisis. From the above, it is my opinion, they will in a little time, come round and follow the example set by so many, sooner than run a risk of the loss of British India.

(Signed) J. BELL, *Lieutenant-Colonel,*
Senior Officer.

TO COLONEL DAVIS, *&c. &c.*

(A true copy,)
(Signed) J. SULLIVAN,
Assistant Resident.

The defence is here closed, and the Judge Advocate having stated his wish to reply, the Court adjourns, till Tuesday morning, the 5th, at 10 o'clock.

TUESDAY, THE 5TH DAY OF DECEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present, as before.

The Judge Advocate states in reply, as follows:—

MAJOR-GENERAL WARDE, AND GENTLEMEN OF THE COURT;

After the very attentive consideration, which you have

given to the investigation of the Prisoner's conduct, connected with the charges preferred against him, I should think myself inexcusable, if I occupied much of your time in commenting upon the defence. I however owe it to myself and the cause I have to support, to offer some few observations upon it. Gentlemen; the cause I have to plead, is military discipline and subordination, without which, an army would become an object of terror, instead of a safeguard to the Government which employs it. How far the Prisoner has, by his conduct, subverted these vital principles of an army, I will endeavour to deduce from the evidence before you. It appears, that Lieutenant-Colonel Bell did receive a written order, to wait upon Colonel Davis with the Officers of the Garrison. He himself tells you, that he directed the assembling of the Officers, and so far obeyed the order, though Colonel Davis dispensed with their attendance, in consequence of the evident agitation among them. The Prisoner felt himself bound to obey the order, as far as it related to the Officers, but he claimed an exemption for himself, as not requiring admonition. Was the Prisoner aware, of what Colonel Davis meant to say to those Officers; and, if even he was, should he not have waited upon his Senior Officer who required his presence, and have enforced that Officer's advice by the weight of his own acquiescence in whatever he might urge? But the Prisoner seems to think, a military man is entitled to a discretionary power of obedience; which is contrary to the acknowledged and received rules sanctioned by ages, of the implicit and immediate attention, which ought to be paid to the orders of a superior. The Prisoner has arraigned the nature of the evidence offered in support of the Prosecution, on the grounds, that he alone is responsible for the acts committed by himself or in his presence. But this is a doctrine not more erroneous, than it is dangerous to the existence of an army. The articles of war clearly point out, that any Officer or Soldier, coming to the knowledge of any mutiny or intended mutiny, shall give information of it, without delay. And, as a mutiny is not the act of one man, but several combined, the acts of the whole must be chargeable upon every one concerned; for

otherwise, an Officer placed in command, may assist the mutineers, by allowing his authority to be usurped, while he remains a quiet spectator of their seditious proceedings, and evades the responsibility attached to, "the not doing his utmost, to suppress the mutiny." Colonel Bell was not only Commanding Officer of the Garrison, but Senior Officer of the Artillery there, whose actions he might have guided: and it does not appear, that he ever made any appeal in the cause of Government to those men, on whose services he could have depended, and with whom he might, without fear of opposition, have retired from the Garrison. The Prisoner has endeavoured to prove to the Court, that, till the 6th of August, his authority was restrained by a committee of Officers; and he argues from this circumstance, that any criminal acts done in the Garrison, till that day, he is not responsible for. Has the Prisoner shewn the Court, that he did not receive a letter addressed to him by Captain Webster, expressive of Colonel Davis's wish to be permitted to leave the Fort? It will be said, he is not bound to shew it.— I should prove it And, in my humble opinion, I have offered evidence sufficient to ground a fair presumption, that he did receive it. The orderly, Modeen Khan, says, he took a letter to Lieutenant-Colonel Bell's house, where there was a guard, who prevented his going in: it was therefore impossible to deliver it in person. But though, perhaps, in the strict sense of the word, this was not a delivery, yet it will naturally suggest a strong probability, that Lieutenant-Colonel Bell must have received it. If then, Gentlemen, you feel satisfied, that it reached his hands, you will find a cooperation on the part of the Prisoner, in the transactions of that day; as it cannot be allowed, in a military point of view, that the usurpation of a body of Officers shall warrant an Officer in command, in tacitly submitting to acts of such a monstrous nature, as that of placing a restraint on the person of a superior Officer. If the Prisoner had resigned his authority, it is strange, that he should have made himself the spokesman of the Garrison, by communicating to Colonel Davis, that all his orders would be obeyed, which did not affect the Company's Officers. He never tells him, that he no longer

considers himself as Commanding Officer; or waits upon Colonel Davis, to concert measures for the restoration of good order and subordination. He thinks it sufficient, to send the Officers; and, when he hears, that the Officer commanding the division is apprehensive his orders will not be obeyed, he takes up his pen, instead of waiting immediately upon him, and personally assuring him, that his authority shall not be insulted. The Prisoner has argued from Mr. Casamajor's evidence, that he had no authority, and that the seizure of the Treasury in that Gentleman's custody, was not made with his privity or consent. Admitting it was not, the report of the seizure was made known to him; and it does not appear, that he took any measures to effect a restoration of it. But the Prisoner seems to think, there is no offence in the seizure of the public money, because none of it was expended;—so that, if a man robs me on the high way, and afterwards restores what he has taken, justice is not offended, nor is any reparation to be made for the act he committed. It is not asserted, that the Prisoner disbursed any of that money; but the allegation of the charge is supported by evidence; and, if you are satisfied that he has permitted or sanctioned the seizure, it is an act of mutiny to the Government of Fort St. George. Subject to the same remarks, are the seizure of Mr. Paymaster Smith's treasure, and that from the Ceded Districts. The Prisoner, though in some cases disclaiming any wish of taking advantage of the penury of evidence, here resorts to the benefit which may be derived from such assistance, and endeavours to shield himself from the responsibility of these acts, by referring you to the power exercised by the committee. It will perhaps strike you, Gentlemen, that, if the Prisoner has made it apparent, that he was subject to a controuling power, it is strange, that the Havildar, who escorted that Treasure, should have gone to Lieutenant-Colonel Bell's house, accompanied by Captain Cadell, &, on that Officer's coming out, be told, that there was danger on the road, he could not depart. That a staff Officer should take it upon himself to give these orders, will not easily be credited. It is therefore fair to presume, that the Prisoner must have been acquainted with the nature of the duty, on which that Havildar had arrived, and

consequently with the seizure of the treasure. And, admitting that he did not issue the order, it must be evident, that the Prisoner was in duty bound, to make a report of the measures which had been adopted, founded on the information given by the Havildar. He did not do so; and the army have been told from high authority, that the neglect of duty is an offence, varying only in degree from a positive violation of it. I here repeat the substance of the charge; which is, that Lieut. Colonel Bell did join in, and head a most alarming mutiny, which took place within certain periods, during which the Public Treasure was seized, and other overt acts committed. And an appeal is now made to the opinion of enlightened military men, whether an Officer, who abstains from any attempt to suppress such disorderly proceedings, either by the exertion of his own authority, or by giving information to the superior power, shall stand absolved of all blame, or can found a claim to immunity.

The Prisoner states, that it was evident, his authority was usurped, as he could not even receive a letter; and draws an apology for returning Colonel Davis's on the 31st, from the danger attending his freedom. So that here, we have a new principle introduced among military men;—a Garrison is in a state of mutiny, the authority is usurped by a body of Officers, and the only man uninfected with this disease, is the Senior Officer, who quietly submits to this usurpation, and, under apprehension that his freedom may be endangered, refuses all communication with his Commanding Officer. Can any act be more insulting to the feelings of an Officer than this? But, the Prisoner complains in his letter of the 6th of August, that Colonel Davis was not communicative; if he had adverted to this rejection of his letter on the 31st, he would have solved the reason, why Colonel Davis did not communicate with him; and the Prisoner seems to forget, that Colonel Davis and Mr. Cole, conjointly, addressed a letter to him and the Officers of the Garrison on the 3d of August. Here was a communication: but the Prisoner says, he did not see that letter; although Major Freese has told you, that it was given to him either by Lieutenant-Colonel Bell or Captain Cadell; and, as there were only those three present, he cou-

cluded, Colonel Bell must have read it. Gentlemen, there is no man more anxious than myself, that the Prisoner should receive every advantage that may arise, from the failure of the evidence on the part of the Crown. But, gentlemen I should wrong your understandings, if I could, for a moment, doubt, that this evidence of Major Freese did not carry conviction to your breasts, that the Prisoner must have seen this letter, addressed to himself and the Officers of the Garrison. And I have still another claim to your belief on this point, by recalling to your recollection, that, on this very day, the Prisoner transmitted to Lieut. Colonel Davis the pledge of obedience, signed by himself, and the declarations of the Officers under his command, which were inimical to the authority of Sir George Barlow and the Government of Fort St. George; and these declarations, together with the letter before the Court, formed the reply to that addressed by Colonel Davis and Mr. Cole. I will not dwell longer on this point; as, whether Col. Bell did or did not read that letter, it must be apparent, that he well knew the Garrison were in a state of mutiny, and no earthly consideration should have induced him to countenance their proceedings, after the rejection of the proffered terms of Government. It is an idle reason to assign, that the Officers were afraid of being employed against their brother Officers, as an excuse for this rejection; because, one of the terms offered, was, that, if they would not act up to the spirit of their commissions, they were to secede from the performance of military duties, which was a complete bar to the objection offered on the part of those Officers. The Prisoner has argued, from Colonel Davis's note, in reply to the above communication on his part, that Colonel Davis could not have considered him, as implicated in the proceedings which had taken place. I cannot declare, what were the sentiments of that Officer upon the occasion; but, I am well assured, that the Prisoner has no right to draw the inference he has done, merely because Colonel Davis said, his heart and house were open to him. I should rather draw a conclusion, that, whatever may have been that Officer's opinion of the Prisoner's preceding conduct, he rejoiced, that the Prisoner felt a proper sense of the duty he owed the Government under which he served; and Colonel Davis

therefore forgot all the insults which had been offered to his authority. The evidence of Captain Webster and Lieutenant Beaumont sufficiently shews, that Colonel Davis was impressed with the idea, that his person was under restraint by the sanction and authority of the Prisoner; and the very circumstance of his sending in the test on the 31st to Lieutenant-Colonel Bell, is corroborative of the fact, that Colonel Davis did consider the Prisoner implicated in the proceedings of the former day. Gentlemen, it has not, nor cannot be disputed, that the Prisoner knew the sentiments of disaffection which existed in the Garrison; that the troops composing it, were exercising military duties, in opposition to the obedience due to the constituted authorities; and the resuming the command (if he ever lost it) over these troops, who were in a state of mutiny, constitutes an assimilation of his conduct with their's. And it has no where been proved, that Lieutenant-Colonel Bell did take any means to suppress the agitation that existed, or enforced obedience to the terms offered on the part of Government. The Prisoner arraigns the Prosecution, because it is loaded with the particulars of casual expressions and conversations; but, I know not from what is to be deduced a mutinous intention, if it is not traced to the language and conduct of men. And, I do think, I should have neglected a material part of my duty, if I had not given to the Court, the most minute circumstances which had any relevancy to the charge preferred. And, whatever the Prisoner's feelings may be, as to what constitute mutiny, I cannot but declare, that the very speeches he made to Lieutenants Cadenskie and Adamson, are indicative of an intention hostile to the interests of good government and due subordination. To the one he says, fire upon any body of troops coming upon such a road; to the other, he advises him not to go to Mysore, as he may be certain it would be in ashes in a few days. Did the Prisoner ever intimate his apprehension of such an event taking place, to Lieutenant-Colonel Davis? No. If he was anxious for the suppression of the dangerous measures which were going on before his eyes, he would, it is to be presumed, have used every exertion in his power, to communicate with the Officer Commanding, in order that the intentions of the

Garrison might be frustrated. But, on examining these voluminous proceedings, we find but one solitary instance of the information he gave at this alarming crisis. I allude to that letter, wherein the Prisoner says, "I am commanded to direct, that the detachment of the 80th should leave the Garrison." If, instead of an acquiescence with this order, the Prisoner had called forth the exertions of those men, together with the 200 Artillerymen under his immediate command, and either declared his intention of resisting any encroachments upon his authority, or had withdrawn those troops to Mysore, for the protection of the seat of Government of the Rajah, in alliance with the Honorable Company, he would then have merited the applause of his Country; and the spectacle of a British Garrison defying the authority of Government, might have been prevented; as the Officers of the Native corps could not have persisted in retaining possession of that Fortress, after the secession of those Europeans from their cause; and even, had they been so fool-hardy, the Natives would soon have learned the nature of the cause in which they were engaged, and most probably have declined a contest with the Government of the country. I have been, throughout this whole trial, anxious to extract from the evidences, aught that might tend to show, whether the Prisoner did make any exertions to vindicate his insulted authority, or to stop the progress of such seditious proceedings. Major Macdowall says, he throughout recommended moderation; but, is this the extent of the exertions, that ought to have been made by a man who was entrusted with the command of a Fortress of so much importance? History will not show a parallel of such extraordinary supineness; and it will scarce be credited, that a man, who professes an ardent desire for the preservation of good order and military discipline, should have acquiesced in silence to the usurpation of his own authority, and the adoption of measures injurious to the cause of subordination. The Prisoner ought and might have made an expiring effort, for the preservation of his authority. He did not; and he becomes answerable for the consequences. I will now leave the period of the reign of the committee, and advert to that, when Lieutenant-Colonel Bell ac-

knowledges, that he resumed his command, which was on the 6th of the month. Gentlemen, I have termed his letter of that day extraordinary and mysterious; and, unless the Prisoner has convinced your understandings, that he had no share in the transactions up to the date of this letter, and was ignorant of the letter of the 3d of August, I shall be justified in the terms I have applied. He had signed the test on the 3d; and, on the 6th, he addresses a letter to his superior Officer, in which he says, he has been *treated* with the greatest possible neglect, and has had *no intimation* of the objects Government had in view. How is this to be reconciled with the rejection of Colonel Davis's letter on the 31st,—his ignorance (as he wishes it to appear) of the letter addressed to himself and the Officers of the Garrison on the 3d of August, which, it is evident, he might have read, as Major Freese read it in his company and part of the contents were commented upon? But the Prisoner asserts, that this letter is expressive of his amicable intentions. Examine it.—He hears of preparations making by the Mysore Government, but knows not; whether such acts have the sanction of the Supreme Government or the Government at home. So that, here, we see an Officer, who, by the seniority of his rank, holds the command of the Fort of Seringapatam, becomes suddenly a politician, and ventures to question the object of measures, adopted by a Court in close alliance with the Government of the country; although it cannot admit of a doubt, but the Prisoner must have been satisfied in his own mind, that the court of Mysore, at which a Representative of the British Government was residing, could not have moved, but in conjunction with that Government. The Court will easily imagine, that a letter of this nature, exhibiting a determination to resist measures, of which advice had been sent into the Fort on the 3d, could not meet with any attention from Lieutenant-Colonel Davis, who saw in it a renunciation of that pledge of obedience, which had been so lately offered, and a resolution on the part of the Prisoner to join his fate with those of the Garrison, who were positively in a state of mutiny. The Prisoner has but slightly adverted to his letters to the Dewan, or the replies to them; which afford conclusive evidence, that the Prisoner, even

if he did not read the letter of the 3d, received information, that the British Resident sanctioned the several acts of the Mysore Court; and the Prisoner must therefore not seek his exculpation on the plea of ignorance, but claim his acquittal at your hands, on the grounds, that he was justified in retaining possession of the Fort, in opposition to the local authorities, and in expectation of the arrival of Lord Minto. I will here take the liberty to observe, that his Lordship's Proclamation in Bengal, declaratory of his intention to visit the Presidency of Fort St. George, could not possibly absolve the servants of this establishment from the obedience due to the existing Government; and therefore, the Prisoner must be considered liable to a charge of mutiny, for declaring, he would not deliver up the Fort to the legal and constituted authorities. That he did so, is recorded on your proceedings; and though denied in the defence, yet no evidence has been adduced to support such denial. I am therefore warranted in saying, that this fact is uncontroverted.— I come now to consider the arguments adduced in justification of the alledged overt act, of firing on the troops of his Majesty. The Prisoner has disclaimed all previous knowledge, of the march of those Battalions from Chitledroog. Major Macdowall has expressly stated the instructions under which he marched, and that he made a report to Lieutenant-Colonel Bell on his return.—This must satisfy the Court, that the Prisoner was not wholly ignorant of the expected approach of those Battalions. It will however be acknowledged, that there is an invariable rule in the army, that notice of the approach of any force towards a Garrison shall be sent to the Officer in command of such Garrison. It does not appear, that Lieutenant-Colonel Bell received intimation of their approach, and no communication had been made by the Assistant Quarter-Master-General to that effect. The Prisoner might therefore, without much difficulty, have concluded, what was really the case, that these corps were marching towards Seringapatam contrary to orders: and the Prisoner could not well be ignorant of the intentions, with which Lieutenant-Colonel Gibbs's detachment had

encamped near the Fort,—as it is not customary for a British force, to take up a position so near a Garrison, without making some communication to the Officer Commanding. This was not done, and a man of the Prisoner's experience ought to have been aware, that that detachment had arrived with hostile views against the Garrison. Gentlemen, the Prisoner has offered in exculpation of his conduct on the 11th of August, a forcible appeal to your passions, and has endeavoured to convince you, that humanity alone influenced him to fire upon the troops of His Majesty.—It will therefore remain for you to determine, how far humanity has a right to interfere in the protection of those who are committing an illegal act; and, if you exonerate him from all criminal intention in firing during the day, another question will arise, whether he was justified in repeating this act, at night time, to allay the agitation in the minds of the Native troops. It is to be presumed, that Lieutenant-Colonel Bell was informed, in the course of that day, that these Battalions had marched to Seringapatam without orders, and he could not consider them in any other light than as men, who had committed a high breach of military discipline, and that the transactions of the morning were only the consequence of an evident act of mutiny. How then is the ferment among the Native troops, arising out of an illegal act, to form an apology for so heinous an offence, as that of firing upon Colonel Gibbs's camp. If, Gentlemen, I have erred in my exposition of this last act, I beseech you to let the Prisoner have the full benefit of the humane intentions, which, he asserts, guided his actions. This is not a prosecution of revenge, but an enquiry instituted by state necessity. An alarming mutiny did exist, within the Garrison under the Prisoner's command; and, it has become an obvious act of justice, to give him an opportunity of proving to the world, that he did not join in or head that mutiny. The arguments adduced, to prove there was no mutinous intention, amount simply to this:—Colonel Bell had not, previous to the 30th July, signed any address or memorial, nor joined in the spirit of combination, which had been manifested too generally throughout the army; therefore, it is not probable, that he would suddenly turn from the path which he

had followed, to assist in the mutinous proceedings of the Garrison. Although I am willing to admit the full force of this reasoning, I must confess, it is difficult, after a perusal of the evidence before the Court, to absolve the Prisoner from all participation in the guilt of others. How is it to be reconciled to common sense, that a man uncontaminated with the spirit of sedition, should, after he had received information that the Officers of a Garrison had refused obedience to the Government of the country, and that a resolution had been expressed by the local authorities in Mysore to assert and support the dignity of that Government, countenance the mutinous proceedings, by declaring his resolution to resist all attacks from the Mysore Government?—Is mutiny against the state to be covered by so thin a cloak as this? He knew, the Mysore Government acted in conjunction with the local authorities, and yet he would resist that Government.—Under what principle, had the Prisoner a right to call on his superior Officer to state, whether the preparations, which he alludes to, had received the sanction of the Supreme Government. The Officer commanding in Mysore, was alone responsible for any attempts that might have been made against that Fortress; and, if the Prisoner could not assist in restoring it to the proper authorities, he ought at least not to have lent the weight of his influence and exertions in opposing any meditated attack. In the commencement of the Prisoner's defence, he has expressed a dissatisfaction, at the mode in which the Prosecution was opened; and I have therefore candidly to assure him, it was my peculiar object to avoid, what might be considered an attempt, to make an undue impression on the Court; and I did think, by tracing the progressive steps to mutiny, it would have clearly pointed out, that, before the period of the charges, every military man had received sufficient warning of the consequences attending an opposition to Government, and therefore should have established a rule of conduct, from which nothing could induce him to depart. Throughout this Prosecution, I have followed what I conceived to be the path of justice, both to the Crown and Prisoner, and before *this* Court it would have been difficult for me to make the slightest deviation. I

cannot but express my surprise, that the Prisoner should have cast a reproach on the Government of the country, for admitting as the first objects of ammesty, the Hydrabad Subsidiary Force, who, by their return to the duty they owed the state, averted the most dreadful consequences, and gave the Prisoner an opportunity of effecting, as he states, that which constitutes the principal feature of his defence,—I mean, the ultimate surrender of the Fort. If the Prisoner really felt a pure satisfaction at the success of his exertions, it would be unmixed with the bitterness of sarcasm exhibited in this passage; and, whatever may be his own lot, he should rejoice at the pardon granted to those, from whose conduct such public benefits had been derived. Although it is no part of my duty, to become the apologist of any body of Officers implicated in the late unfortunate proceedings, yet, as this trial may go forth to the world, I hope I shall stand excused, in stating, from my own personal knowledge, that the Hydrabad Subsidiary Force were the last, not the first, to engage in any of the recent transactions,—as no papers or memorials had been signed in that quarter of the Army till after the 1st of May, and it must be apparent, that a spirit of revolt had manifested itself previous to that date, and the Officers at that station were urged not only by entreaty, but by reproaches, to lend their assistance to, what was termed, the cause of the Army.—I have now, Gentlemen, to conclude my remarks on the whole of the proceedings, and, with the most perfect confidence in the justice and ability of this Court, resign the merits of the case to its decision.

Judge Advocate. The proceedings are here closed; and the Court adjourns till Friday morning, the 8th instant, at 10 o'clock.

FRIDAY MORNING, THE 8TH DECEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present.

The proceedings are read over; and, it being near 3 o'clock, the Court adjourns till 10 o'clock tomorrow morning.

SATURDAY, THE 9TH OF DECEMBER, 1809.

The Court met, pursuant to adjournment.

Members all present.

SENTENCE.—The Court are of opinion, that the Prisoner, Lieutenant-Colonel John Bell, is guilty of the charges preferred against him; which being in violation of the Articles of War, and subversive of good order and military discipline, they do sentence the said Lieutenant-Colonel John Bell, to be cashiered; and do further declare him unworthy of ever serving the Honorable Company, in any military capacity whatsoever.

(Signed) HENRY WARDE,
Major General, and President.

(Signed) W. ORMSBY,
Deputy Judge Advocate.

To LIEUT. ORMSBY,
Deputy Judge Advocate,
Bangalore.

SIR;

"I am directed by the Officer Commanding the Army in Chief, to return to you the accompanying proceedings on the trial of Lieutenant-Colonel John Bell, for the further consideration of the Court.

"The first point, to which the Officer Commanding the Army desires to call the attention of the Court, is the very injurious reflections, which the Prisoner has thought proper to make use of, against the two supreme authorities of this country, His Excellency the Right Honorable the Governor General, and the Honorable the Governor of Fort St. George.

"A Prisoner has, certainly, a right to urge every topic that is necessary, for the clearing himself of the crime of which he stands accused; but, beyond this, his situation can entitle him to no privilege whatever in that way. The invectives against the two authorities above alluded to, which the Prisoner has thought proper to use, instead of lessening the crimes he was to answer for, only prove more fully the malicious disposition under which he acted, and, considered as an invasion of that just respect, which

the Government of every country is entitled to, from its subjects, it is impossible to warrant their admission.

"In no court of Justice whatever, is a Prisoner ever allowed to give vent to his passions, in wanton and personal reflections on others,—much less, to attempt to spread disaffection against the Government of the country, and to bring its acts into degradation, under the pretext of making his defence. And, in the present instance, it must be obvious, that his own defence was but a pretence, for Lieutenant-Colonel Bell calling in question, the right of Government to send home Officers without trial. Such formed no part of his own case, and he had, therefore, no right whatever to allude to it, or to allude to the several topics in the under-scored lines of his defence.

"Whilst it is the priviledge of a Defendant, to shew that he has not infringed the law, he is never allowed in his pleading, to impeach the justice of the law itself, or to call in question the general theory of the constitution. And such was the principle, on which a great constitutional Magistrate acted, when he stopped a Prisoner in his defence of some seditious writings, by telling him, "You "shall not be suffered to give the reasons of your dam- "nable doctrine here, to seduce the King's subjects." (Speech of Lord Chief Justice Hyde, on the trial of Keach. State Trials, vol. 2d, page 552.)

Lieutenant-Colonel Bell has affected to stand forth the champion of the rights of the army, and, by making it be believed, that he had fallen a martyr to their cause, has sought to rouse their feelings to sentiments of fresh inveteracy against Government,—an offence, which was aggravated from the place where it was committed; for who shall be deemed offenders, if not they who offend in Courts of Justice?

"The Officer Commanding the Army must therefore look, for these passages being expunged, as they can, in no ways, avail the rights of the Prisoner, whilst they infringe upon those of others, and hold forth a dangerous example of the proceedings of a Court of Justice becoming the vehicle of reflections, as hostile to the just respect which is due to Government, as they are injuriously applied to the two eminent characters, who fill the two first stations in this country.

"I am further directed by the Officer Commanding the Army, to call the attention of the Court, to the nature of the sentence which has been passed on Lieut.-Col. Bell.

"Familiar, from long experience, with the general feelings of military men upon questions of this nature, and with a train of decisions before him, the Officer Commanding the Army finds himself imperiously called upon, not to record a silent confirmation of the above sentence, but to discharge that duty which the law has bound him to, by sending back for revision, a judgment at variance with every principle which has hitherto governed military tribunal, in cases similar to the present; if, indeed, a case of similar atrocity can be found in the annals of our military history.

"The Prisoner, in his command of Seringapatam, and in the custody of an important Fortress, was invested with one of the most sacred trusts that can be confided to a Soldier. He has been convicted by the judgment of the Court, of joining in an open mutiny of the Garrison under his command; of holding the Fortress against the Government, by which it was placed under his charge; of turning the arms of the state, against the state itself; of committing actual hostility against the troops of His Majesty, and of his own immediate superiors, the East India Company, against whom he fired shot and shells from the ramparts of the Honorable Company's own Fortress. He committed these enormous and detestable crimes, in concert with, and under pledges of mutual support from other parts of the same Army, leagued together in a guilty conspiracy against their Government, their King, and their Country.—His crime therefore, includes every thing that is treasonable in a subject, wicked in a man, or infamous in a soldier.

"In addition to its moral enormity, it is the most dangerous that can be committed, against the peace and security of mankind; and the pretexts by which he has attempted to justify his conduct, are either so futile and contemptible, as nearly, to insult the tribunal, to which they were tendered, or of such a character, as to add to his offence. What case can be imagined therefore, in which the penalty pointed by the law for mutiny and sedition, can be ad-

judged, if it is withheld from the crime of which the Court Martial has declared him guilty!

"His defence, so far from entitling him to peculiar indulgence, contains many passages, which common decorum will not admit of remaining on the records of the Court; and which, so far from indicating any sentiments of contrition or reformation of the depraved habits of his mind, tending to extenuate former guilt, amounts to a new profession of the same criminal disposition, and a continued determination to promote the same reprehensible cause.

"Amongst these, the Officer Commanding the Army cannot omit to notice in terms of the warmest censure, the slanderous, and, at the same time, mischievous and dangerous language, in which he affects to speak of the opposition, which, in obedience to every dictate of duty, was made to the criminal march of the Battalions from Chittledroog, to reinforce the revolted Garrison of Seringapatam. It is matter of regret to the Officer Commanding the Army, that the Court should have permitted a Prisoner in his circumstances, to blacken the character of His Majesty's troops, with the false and infamous aspersions of carnage and massacre; because they discharged their duty with fidelity, in repelling that seditious mutiny, of which the Court has found the Prisoner himself to be a partaker and ringleader.

"On this scandalous topic, the Prisoner has endeavoured to pervert the declaration of Government in General Orders, that the unfortunate soldiery of the Native battalions of Chittledroog, were entirely innocent. Government, as he knows, made that declaration, on the ground that those Native troops had been kept in ignorance of the criminal object, for which their Officers led them to Seringapatam, and had been deluded into a false opinion, that they were marching to support the Company's Government against a foreign attack. Government made the declaration, upon the foundation of the deluded Sepoys having been deceived into the belief, that they were discharging their duty faithfully to the Company, whilst, in reality, they were led by their Officers to levy war against its Government. On one hand, therefore, that ma-

ny innocent and meritorious men suffered in that lamentable day, is a truth, which can never be sufficiently deplored, and must lie heavy on the consciences of those whose criminal enterprize led to that calamity. On the other hand, the loyal troops who opposed them, performed a painful, but sacred duty, in repelling by force, an open act of revolt. For what purpose, then, did Lieut.-Col. Bell presume to villify the characters of these faithful men, by treating the action of that day as a carnage or massacre? It was not necessary to his cause, to do so. It was a fresh attempt to irritate, by misrepresentation, one part of the Army against the other, and to alienate the affection of the Native soldier from his Government.

"This was done, at the very bar of the Court; which was thus converted into an organ of falsehood and sedition, by one, who should have been made to feel, that he stood there in jeopardy himself, for the crimes charged against him; and that, so far from meriting a mitigated sentence, by a repentant and decorous demeanour, these fresh demonstrations of a hardened, uncorrected mind, left no room for mitigation or lenity.

"In the above view of the general subject, (and it will not be found an exaggerated one,) the Officer Commanding the Army was led to have looked, for a different kind of judgment being pronounced by the Court.

"He was led to this expectation, on a large experience of the sentences pronounced by Courts Martial, in cases of a very inferior species of guilt.

"When a private Soldier deserts his colours, or joins in any mutiny or sedition, he is liable to the heaviest penalty of the law. But the offence of a private Soldier is aggravated in the person of his Officer; whose better education should preserve him from error, and whose superior station renders his crime, at once more dangerous to society, in its immediate effect, and in the example it holds forth.

"A mutiny took place in the corps of Artillery, (to which Lieutenant-Colonel Bell belongs,) at St. Thomas's Count, in the year 1798, but which did not last perhaps 3 hours, and during which, no particular outrage was

committed. All the soldiers, who, on their trial, were found to have joined in it, were capitally convicted, and three of them suffered accordingly.

" In a mutiny of a more recent occurrence, which took place in 1806, (and to the particulars of which it is not necessary to recur,) twenty private Sepoys, with two Native commissioned Officers, or nearly that number, either suffered the highest penalty of the law, or were at least capitally condemned.

" Nor was the propriety of these examples being made, ever called in question.

" With so many instances of a different penalty on record, it will be difficult perhaps, to reconcile to the public feelings, the propriety of the present judgment.

" And, if any thing could strengthen this reasoning, it is a consideration of the circumstances of the present moment, which, more than at any former period, imperiously call for an example.

" Entertaining these views of the crime, and of the trial, in which the Officer Commanding the Army cannot discern one circumtance of extenuation, it is impossible he should approve of the sentence; and, on discharging the delicate and painful duty of remitting the proceedings for the careful and serious revision, he is actuated by the recollection, that the important law, which the Court has now to administer, has been especially provided, for the protection of his country against the most dangerous warfare, that can be waged against its welfare, security, and happiness; and that the discipline of future armies, and the safety of future generations, must be strengthened or impaired by the ultimate decision of the Court."

(Signed) J. LEITH,

Judge Advocate General.

Fort St. George, 23d *Feb.* 1810.

N. B. The above Letter ought to have formed a number in the trial, but, by some mistake, was omitted by the Judge Advocate in the copy transmitted for the Officer Commanding the Army.

J. LEITH,

Judge Advocate General.

FRIDAY, THE 27TH DAY OF FEBRUARY, 1810.

The General Court Martial, which assembled on the 1st day of November 1809, and continued by successive adjournments, is assembled this day, under orders from the Officer Commanding the Army in Chief; and Lieutenant-Colonel Bell being called into Court, is informed that there are certain passages of his Defence, which are considered by the Officer Commanding the Army as irrelevant to the course of his Defence, and disrespectful to the authorities at the head of the Government. It is therefore, in the first instance, strongly recommended to him by the Court, to consent to their being expunged. —Lieutenant Colonel Bell in reply states, that it is unnecessary to read the passages alluded to, as he has been advised not to consent to a single passage of his Defence being struck out, the whole being absolutely necessary to his Defence.

The Court is cleared, and having taken into considera-tion the several passages in question, have determined, that, however exceptionable they have always, and do think them, yet, in justice to the Prisoner (as they did in the first instance,) do not feel themselves warranted in expunging any part of his Defence from the face of their proceedings.

The Court being opened, the above is read to the Prisoner, and the Court is again closed; when the Judge Advocate informs the Court, that the Officer Comman-ding the Army in Chief has directed a revision of their Sentence.

REVISED SENTENCE.

The Court having re-considered the evidence brought before them, adhere to their former opinion.

(Signed) HENRY WARDE,

Major-General, and President.

(Signed) W. ORMSBY,

Deputy Judge Advocate.

The Court adjourn.

I perfectly agree with the Court, that the Prisoner Lieutenant Colonel John Bell, of the corps of Artillery, is guilty of the crimes charged against him, and I do

therefore confirm the sentence.

(Signed) F. GOWDIE, *Major-General,*
Commanding the Army in Chief.

Head Quarters, 8th March 1810.

GENERAL ORDERS.

HEAD QUARTERS, CHOULTRY PLAIN; 8TH MARCH 1810.

G. O. BY MAJOR GENERAL GOWDIE.

The following parts of the confirmed proceedings of a General Court Martial assembled at Bangalore, by order of Major-General Gowdie Commanding the Army in Chief, on the first day of November 1809, and of which Major General Warde is President, are published to the Army.

CHARGE.—Lieutenant-Colonel John Bell of the Madras Artillery, and late Commanding the Fort and Garrison of Seringapatam; charged by the Officer Commanding the Army, with having, in subversion of all good order and military discipline, and in violation of the rules and articles of war for the better government of the Company's forces, joined in, and headed a most dangerous and alarming mutiny and sedition, which took place in the said Garrison, on and betwixt the 30th day of July last and 23d of August following; during which period, the Garrison fired on the troops of His Majesty, and those of the Company and their Ally the Rajah of Mysore, and seized on the public Treasury; and he, Lieutenant-Colonel John Bell, declared his resolution, not to deliver up the Fort and Garrison to the proper authorities.

By order of Major General Gowdie, Commanding the Army.

(Signed) T. H. S. CONWAY.
Adjutant General of the Army.

Fort St. George, October 9, 1809.

SENTENCE, as passed on the 9th of December, 1809.

The Court are of opinion, that the Prisoner, Lieutenant,-Colonel John Bell, is guilty of the charge preferred against him; which being in violation of the articles of war, and subversive of good order and military discipline, they do sentence the said Lieutenant-Colonel John

Bell to be cashiered, and do further declare him unworthy of ever serving the Honorable Company, in any military capacity whatsoever.

(Signed) HENRY WARDE,
Major-General and President.
(Signed) W. ORMSBY,
Deputy Judge-Advocate.

***REVISED SENTENCE**, as passed the 27th day of February 1810.*

The Court having reconsidered the evidence brought before them, adhere to their former opinion.

(Signed) HENRY WARDE,
Major-General and President.
(Signed) W. ORMSBY,
Deputy Judge Advocate.

[illegible] agree with the Court, that the Prisoner Lieute[illegible]nel John Bell, of the Corps Artillery, is guilty [illegible] crimes charged against him, and I do therefore confirm the sentence.

(Signed) F. GOWDIE, *Major-General,*
Commanding the Army in Chief.

Although the Officer Commanding the Army has confirmed the Sentence of the General Court Martial which has adjudged "Lieutenant-Colonel John Bell to be "cashiered, and declared him unworthy of ever serving "the Honorable Company in any military capacity "whatsoever," he feels it a sacred duty he owes to his King, his country, and the service, to which he has now zealously devoted forty-three years of his life, to express his pointed disapprobation of the punishment awarded the Prisoner; which, in his opinion, bears no proportion to the atrocity of the crimes so clearly proved and evident on the face of the proceedings.

The Officer Commanding Mysore, will be pleased to order Mr. John Bell to proceed to the Presidency immediately, for the purpose of placing himself under the charge of the Town Major.

FINIS.

MEMOIRS

OF

MADAME MANSON,

EXPLANATORY OF HER CONDUCT

ON

The Trial

FOR

THE ASSASSINATION

OF

M. FUALDES.

WRITTEN BY HERSELF,

AND

ADDRESSED TO MADAME ENJALRAN, HER MOTHER.

WITH A PORTRAIT AND FAC-SIMILE.

TRANSLATED FROM THE ORIGINAL.

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PREFACE.

In the following attempt to convey to the British public, a work which has excited such unusual interest in France, as to pass through three editions, in almost the same number of days, the aim of the translator has been to make as *close* a translation as possible of the original. If his design has been successful, the reader will peruse the *extraordinary* memoir of a very *extraordinary* woman, though not in her own words, yet as nearly as it could be rendered in her own turn of thought. He has no where presumed, for the sake of aiming at *elegance*, to sacrifice *faithfulness*; judging that it would be more acceptable to those who may honour this work with a perusal, to be presented with those reasons which the writer has herself thought proper to assign, for her unparalleled conduct, in a nearly *literal* version of her own pamphlet. Whoever may open this little work with any view beyond that of hearing Madame

Manson plead her own cause, will be disappointed. Those, however, who take the trouble to read it through, will, the translator flatters himself, have her own, and *nothing but her own*, statement of facts; and to the judgment of the reader, he leaves it to pronounce sentence on that which is, to him, inexplicable. Should any errors have unavoidably escaped the notice of the translator, he must claim indulgence, on account of the haste which he has been obliged to use in bringing it out; under the additional disadvantage of struggling with the languor attendant on ill health.

London,
February 5th, 1818.

TO THE EDITOR.

SIR,

YOU are going to publish the Memoirs which Madame Manson, with the express intention of promulgating them, confided to me at Rodez; you have deemed it proper to remark, that, originally indited as a simple letter, and with the sole object of family confidence, these Memoirs would be deficient in some essential details. You decide that, in order to satisfy the expectations and the pressing curiosity of our readers, it will be expedient to annex to them notes explanatory of some passages, and observations less requisite to throw light on the text, than to convey an idea of the singular character of the author. In fine, you desire a hasty sketch of the earlier years of her youth.

I acknowledge the justice of these views; I will also grant that the advantage of being enabled, on the very spot which was the scene of these events, to gather from Madame Manson herself, and from the persons who had the best knowledge of them, the precise facts, and the clearest opinions, may inspire some confidence in the recital which I can transmit

to you; and yet I find myself under some perplexity in satisfying you; not that the conduct of this celebrated witness does not appear to myself distinctly unveiled; not that her avowals leave either doubt or uncertainty in my own mind; but I am sensible of the difficulty of conveying to the dispassionate reader, or to the prejudiced reviewer, a clear comprehension of the entire case. In her ingenuous statement, which is in other respects so remarkable for the grace and facility of a style which has allowed of no corrections, Madame Manson has by no means that method of narrating, that developement of facts, that light thrown so powerfully on circumstances, which we find in the simplest brief of a pleader. Who would dare flatter himself with supplying it, when she is still in that perilous situation in which the least word may do an ill office, to her meaning? So much of the marvellous has been sought for in this affair, that the best informed shrink back from the simple explication which they could give, according to the idea which they have matured. I lack confidence to produce a natural hypothesis, where all France has supposed so many artifices, united interests, and profound combinations. Not doubtless, because there is nothing of the marvellous at the bottom of this history; otherwise Madame Manson could not escape the accusation of inconsiderateness and frivolity; but this marvellous does not hide itself in the facts; it reposes in the human heart; it is in the contradictory emotions of a woman dismayed, *influenced*, and menaced.

To explain the conduct of this female on the trial

for the assassination of M. Fualdes, let us attempt to analyze the resolutions which she has been seen to adopt in the course of events anterior to this memorable period, and let us throw a *coup-d'œil* on her education, character, and life. She would not implicate any one but herself in the reproach incurred by the errors which she has committed, and the misfortunes which she has undergone; I will force myself to imitate her submissive reserve. The cause of this silence may be generous: and if such is the case, where is the man who would not admire it, though even from that circumstance her justification should appear less complete and less signal?

Clarissa Enjalran was born at Rodez in 1785. She was almost entirely brought up in the country, in an ancient château named *le Perrie*, which her father purchased of M. de Bonald, at the commencement of the revolution. Her childhood was little indebted to education, and passed away in the midst of our political storms. A retreat, where her unfettered inclinations unfolded themselves, is sufficiently favourable to ideas of exaltation; and I have elsewhere observed how much this imposing solitude may have served to the developement of a romantic heart. Clarissa was from her birth endued with a very superior mind, great delicacy of wit, and exquisite sensibility; she early imbibed affections which might minister to the activity of her soul. She loved her parents, and particularly her mother, with a sort of passion. In the dangers which her father ran during the troubles of our anarchy, she, by the side of this courageous mother, displayed an heroic resignation.

Report has spoken of an attachment that would have ensnared her young heart, and the object of which was beneath the rank of her family and her expectations: we shall not weary ourselves with these floating rumours, which are, to say the least, uncertain. She espoused M. Manson, in compliance with her father's desire; and this union was not happy. At the expiration of three months the new married couple were separated. The officer, who had given her his hand, departed for Spain, and left her in the enjoyment of a liberty, which he had not till then permitted her, to resign herself into the hands of her mother. She found herself exposed to the dangers of the world, and its remarks; you know the air of our provinces; it seems that in the circles of a little town, one disdains to suppose the rigid observation of propriety, in order with a malicious complaisance to seek to envenom the most indifferent actions. Madame Manson, it must be allowed, lent more colour than any person, to scandalous interpretations: she was singular, for she was superior; and her independent character sowed enemies at her feet. On the return of the expedition from Spain, her husband came back to share his fire-side: they soon separated anew. M. Manson caused a legal order to be signified to his consort to come and dwell with him: but the young woman was near her indulgent consoler; she refused to obey him, and subscribed her refusal, indignant that he should cause a bailiff to interpose in their conjugal dissensions.

She received new and more tender entreaties, and some time after, the husband whom she had refused

to accompany, was in the château, under a disguise, concealed and privately nourished by the cares of his wife, who appeared to derive more animating attractions from a connexion thus disguised. The wedded lover was discovered; one would have believed the re-union easy! but Madame Enjalran could only use the remonstrances made by tenderness, to compel her daughter to separate herself from her; the husband was again sacrificed. Madame Manson knew how to shift him off; but, under the pretext of going sometimes to the village, to accomplish a pious duty, she gave him an interview in the woods. What shall explain the caprices of a heart so hard to be understood, as to demand, in the charm of duty, the pensive illusions of love? The character of Madame Manson alone: in studying it well, one perceives that what exalted imaginations represent to themselves as chimerical, is naturally found in her, in such manner, that it is impossible, whoever sketches an historic portrait of her, should not appear to have traced from fancy that of a heroine of romance. Madame de Stael would say of this lady, that she had not *prosaic* genius. Does it not appear as if this passage of Corinna was appropriate to her? "*The vulgar take for folly the uneasy workings of a soul which in this nether world does not respire sufficient air, sufficient enthusiasm, sufficient hope.*"*

However, it came to pass, the young wife became

* The Duchess of Longueville, so well known by the originality of her genius, and her connexions with the first men of the enlightened age, wrote one day, after having drank with delight a glass of water, "*What a pity it is that it is not a sin!*"

a mother; and from this event in her life, that life underwent an entire change. It was not the same with her destiny; her husband obtained a place many leagues from Rodez: the unfortunate woman remained solitary, reduced to an insufficient pension, and if one can believe the proceedings of the suit which has just been annulled, very irregularly paid. I shall be asked, perhaps, how I became instructed in the greatest part of these details; how, arrived at Rodez, to attend the new deliberations on the trial respecting Fualdes, I find myself entrusted with the confessions of an important witness; I will eagerly reply to them: I hold the original documents from the most unexceptionable source:* if I have inspired the mysterious captive with any confidence, I doubtless solely owe it to the advantage of having been introduced to her by an ecclesiastic, the friend of her family. Our unusual visits consoled her: far from approaching her with the prejudices with which

* If one had seen Madame Enjalran for a few instants, one would cease to be astonished that she was the object of unanimous applause. We find in a Memoir, printed at Montpellier in 1810, respecting a suit instituted by M. de Planard, the brother of this lady, against her husband, eulogiums which do honour to the brother and to the sister. M. de Planard claims from M. Enjalran property, fallen without doubt into the conjugal community, and yet he pleases himself in the midst of his reclamations with rendering homage to the disinterested character and to all the virtues of Madame Enjalran.

Since we have here cited M. Planard, whose name associates itself with the recollection of more than one literary triumph, we cannot refuse ourselves the pleasure of adding, that in fact one of his sons (the cousin-german of Madame Manson) is the young poet, whose works have succeeded on almost all our principal theatres.

those who sought her came armed, we found the means of comprehending, of compassionating, of hearing her. In one of these conversations, in which the learned Abbé P. shewed himself so worthy of his ministry, embarrassed with the explanation of some particulars, with questions which arose between us, with facts which were not satisfactorily accounted for, we requested of her to recount her own story. She hearkened to us with tears: confirmed by additions to this recital, the truth which we had supposed, and then imparted to us the MS. which you this day publish. Charged to submit it to her mother, before causing it to be printed, I brought it back to Madame Manson, with the answer which she solicited from her only friend. If she swerved from the counsel which had been pointed out to her, by taking the previous advice of her father, it is for the reader to determine, after having perused this memoir, if she had a right to free herself from it, and if we ought to refuse, in the state of abandonment in which she was left, to concur in giving publicity to a writing advantageous to her misfortune, and perhaps also to justice and to truth.

I would make you exactly acquainted with Madame Manson. I discern no surer means than by citing her own sentiments upon her character, freely expressed in one of her letters, and to leave her thus in an unstudied attitude to judge of and to paint herself.

"You have a right to be very much astonished, Sir;" she wrote a few days since;* "you

* The 4th December.

doubtless looked for acknowledgements on my part in the most elegant phraseology: in place of that I have been almost as clumsy with you as with M. de Cazes.* Would you believe, that gratitude and fear produce sometimes the same effects on persons of sensibility. I am just about affording you demonstration of it: I am going to prove to you both that I know how to refind the use of speech, and that I am not always mute.

"What do I not owe you, Sir? You have had the goodness to make a journey expressly to tranquillize me on account of my child; you have seen my mother, my son, my brother; you assure me of their constant love, and that they take the same interest in the poor recluse. I have passed one happy day in the last five months, and it is to you that I owe it! You are arrived *à propos* to reconcile me to mankind, and to correct my misanthropy. However, I believe you gifted with great insight and penetration, you have not as yet seen me long enough to form to yourself an idea of my character. I have said that nobody understood me, and it is true. Scarcely do I know myself, and I daily study myself. I am myself astonished: I am inexplicable; so says my mother. I do nothing like other people: it has been my lot to be unjustly accused; and through the effect of pride ill understood, or if you like it better, of my *eccentricity*, I disdain to justify myself. I am capable of the most important efforts in order to oblige: nothing is so flattering to me as inspiring sentiments of gratitude. I rarely calculate on the

* Prefect of Tarn.

events which will result from an action that my heart prompts me to do, and it is rarely that I experience remorse. I always act without premeditation: in short, I am believed to have what is called a disordered head; at least they daily tell me so. I wrote lately to a person, that what was defective in my mien, might easily be found in my heart; but go seek it: what is once entered there, passes out no more.

"My conduct in the trial about M. Fualdes appeared very extraordinary; I have nevertheless been actuated by the same motives: the discovery of the truth, the justification of my father, the preservation of my son; and here is every thing, I believe. I have deceived myself; I have missed the aim which I proposed to myself: it is not the only time, and it will happen to me yet again. Can an inconsiderate woman correct herself? Never; and I have not a hope of it. * *

"I do not know how to recapitulate: endeavour to do it for me. I would see an analysis of my character that you should have prepared; you have the particulars; the *recapitulation* is with you.

"You have asked, Sir, my commissions for Paris: I would desire a work, the title of which may be "*A complete History of the Trial respecting M. Fualdes,*" with historical notes as to the principal personages who have figured in this affair; a new edition, revised, corrected, and embellished with a portrait, a *striking likeness* of Madame Manson. You will do me the pleasure to send it me, with the papers that you have promised me. You have told

me that you would furnish me with the means of acquitting myself to you; but, under a certain bearing, I defy you to do it.

* * * * * *

"Take yourself away most expeditiously: we shall pass for conspirators; and your pity for an unfortunate will give you the air of an accomplice; they will at least believe that I have told you *my secret*, and you will be put in the inquisition. Adieu, Sir; do not forget the cell of Father Chabot. I am going to take my leave of you; my paper is finished; tell me if I have employed it well, and if your views are fulfilled, I will thank my tried instructor. Receive the assurances of my esteem.

"ENJALRAN M."

Such is Madam Manson, serious and sober. To appreciate her gaiety, and that unshaken calm which she knew how to retain in the melancholy recesses of a prison, re-peruse the note, which forms at the commencement of this volume the *fac simile* of her writing, and the particulars which she added still more recently.*

"Your sojourn at Rodez has put many wise heads a wondering: for myself, I am more and more under a close confinement. I require the most rigorous secrecy, the most peremptory orders, in short, that a single line from my hand should not go abroad. Good God! how *fond of precaution* are those people! How is one to deceive them! My jailor is mad. I

* The 8th December.

tell him that I know every thing, in despite of his vigilance: he daily makes me domiciliary visits: he searches every where, imagining that you have left some sylph in my cell. I have told him that I wrote without paper, ink, or pen. Have I not studied the Turkish salam, and the Egyptian hieroglyphic? I have told him that I was a magician, and, what is still more droll, is, that he is persuaded of it. A woman, whose parents have been shut up in 1793, and who has followed them into their prison, has been educated in the art of deceiving jailors. For the rest, if mine occasionally grows angry, I do him justice, and he only does his duty. Concede to me this little paragraph in favour of my old turnkey; he is a valiant man, and I fancy him.

* * * * * *

"They have just told me that I am decidedly in the number of the accused; but this does not hinder my smiles; my judges will be more embarrassed than myself. They have come to ask me some questions regarding you: I have replied, that I had charged you with a request for my Lord Keeper of the seals. Have I told a falsehood? I write to you without too perfect an acquaintance with the means I shall use to convey my letter from hence; but angel or devil, somebody shall take charge of it.

"Adieu, restorer of my gaiety; rely on my perfect esteem, and even on myattachment.

* * * * * *

Endeavour to comprehend me. It matters little if I

am inexplicable to all the world, so that I am not so to my friends."

The *recapitulation* which Madame Manson mentions in one of these letters, will be superfluous to whoever will attentively read the lines which she has inscribed; every thing is there, and every thing is there most rigorously explained; but occasionally, perhaps, the reflection of the reader must arrive to the relief of the conclusions understood by the author. Let it not be forgotten, that a passionate impulse may lead such a character to make a false avowal. and to sustain it, in a private interview, by the impression which she pleases herself in producing. Let it not be forgotten, that the first step of the accused was to retract her absurd discourse as soon as justice demanded an account of it; for if Madame Manson is fallen into the contradictions of a nameless complaisance; if she has yielded to long pursuit, to the weakness of her courage and of her animal strength; in short, to the menaces which have, she says, been made to her against her son—it is proved that she is risen again from this imbecility; that she has never uttered a judicial falsehood, has never violated the faith of her oath.

We know that, owing to a universal prejudice, which appertains to the effervescence of a southern spirit, an entire town was on the instant persuaded that she had been present at a murder; and then to explain the importunity of two persons who charged her with it, it is sufficient to call to mind the self-conviction of the first, and the praiseworthy, but perhaps too ardent zeal, with which he was thus ani-

mated for the public good. For the second, what need is there to render his motives complex, and resort to them, as has been done, under the suspicion of being an accomplice, or of the union of pecuniary interests with one of the suspected. They have claimed belief of the innocence of this suspected person, by the sole motive that he was his friend; for one does not impute criminality to those whom one esteems. If M. Enjalran was a father, he was a magistrate; and convinced as a magistrate, he was able to prefer the triumph of what he called the truth, to the honor of his daughter, which was already so compromised. For this daughter (at the same time courageous and feeble), she has proved by her conduct, that she had surmounted all afflictions, except the inquisition of the mind, the moral rack, the torture of the heart.

She appeared at the sitting of the 22d of August; you shall see what proof she had to undergo! Terrific words escaped her; and in the sequel, when she was asked why she had cried out—"*Remove those assassins from my sight!*" "Why should I not have said it," answered she, "if they caused me to appear in this condition before the accused, and if my delirium has seen in their bloody hands, a poniard?—This frightful illusion was fatal to them—Is it my fault, if *I have witnessed it?* Is it my fault, if they deny all credence to my calm and collected depositions, to gather the words of my phrenzy.—I am compelled to make a futile and unofficial declaration: it is adopted. Free, restored to the exercise of my conscience, I pass no longer but for a false witness. They believe the wanderings of my brain; they re-

fuse the statement of my collected reason. By what fatality have the convulsions of a woman, who twice fainted away, regulated the terrible verdict of a jury?"

One remark, which has been often made, and in trials not less striking than this, is the species of defence upon which the public conviction rests against every circumstance that emanates from an accused person, to whom the resources of the mind are admitted. Talent passes for stratagem, and every kind of eloquence for a snare; whilst they suffer themselves to be overcome by the allegations of an illiterate culprit, when these very allegations are given with the weightiest interest in the cause, *Missionier* had not found minds that revolted more from the belief that he was an accomplice, than Madame Manson, when she wished to prove that she was not a witness.*

To conclude, I am not armed with the means of justifying all the acts, and all the colourings in the conduct of Madam Manson: this would be undertaking more than she can do herself: I only wish to put her intention succinctly in action; a more able defender will finish this task. I do not deny to myself the idea, that she bears a character, at the least extraordinary, on that very ground where nothing, perhaps, but a steady and ample good faith was re-

* It is especially during the revolution that these examples were too frequent. When Vergniaud appeared before his judges, he pronounced a calm and admirable discourse, before abandoning his life to them. The effect of his eloquence was to enrage the auditors, and some of the spectators said, "*what a cunning rascal is that, and what good grounds they have to condemn him.*"

quisite. The desire of a certain celebrity may, for some short time, have possessed her.

But, if after drawing a moral line, with every geometric rigour, you said, such is the path which it is proper to follow, you will easily perceive how Madame Manson has wandered from it. However, it is just to bear in mind, that one cannot expect from the weakness and from the inconsistency of a terrified woman, what a man, of determined spirit and stoical mind, might have done.

I have refrained from making the smallest alteration in the original digest of her recital, though she had given me entire liberty to make corrections in it; only where I have judged some slight annotations indispensable, I have annexed them without attaching the responsibility of them to her.

As, in contempt of the claims of her misfortune, false sentiments and false statements are daily attributed to her, I declare to you that she insists that every precaution should be employed to guarantee the authenticity of her confessions. Her manuscript is in her own writing; it does not contain a single word which is not penned by her own hand. You will be so good as to have it copied, read over, and collated, and take the trouble of depositing the original with one of the notaries at Paris.*

For myself, Sir, whilst you execute this delicate commission, I repair to Albi, where the witnesses, the advocates, the accused, and their judges are al-

* The intention of Madam Manson has been scrupulously fulfilled: we have entrusted her manuscript to M. Vienot, notary, Rue des Prouvaires, No. 38.

ready assembling, with a numerous concourse of spectators, in order to continue to transmit you from thence, for the public, with our habitual exactness, all the records of this terrible drama.

THE PARISIAN STENOGRAPH.

4th January, 1818.

Rodez, from the Prison of the Capuchins.

December, 1817.

" It is to the tenderest of mothers, to the most faithful of friends, that I will state the truth; she alone, will probably believe and appreciate it; she alone will have known how to preserve herself from a fearful prejudgment.

" Listen to me, my dear mamma, compassionate me, excuse me, I have no interest in deceiving you, I derive important benefits from imparting to you the truth, those of solacing my heart; and, in making choice of you for my guide, obtaining your advice. Why have I not earlier sought it! I should not have so greatly erred.

" Behold my history: I do not relate it in a couple of words, for I am going to refer to events long passed. I have time to do it: and if I enter into some minuter details, certain of interesting you, as I have written but for you, my task will be fulfilled.

" You know that I came to dwell at Rodez towards the middle of the month of October, of last year. I passed all my time with the family of Pal, which is entirely composed of respectable and quiet persons; I scarcely went abroad but to go to Olemps, to church, and to Madame Constans, the milliner, who supplied me with all I wanted. I was in her shop one day,

when I perceived a man enter, whose face was unknown to me; he assumed so free and so licentious an air with this woman, that he obliged me to withdraw hastily without completing my purchases.

"When I had occasion to see Madame Constans again, she informed me that the person, who had so much displeased me, was, the aid-de-camp of General de Wautré, and a staunch royalist. 'All this,' said I, 'does not prove against his having been very badly brought up, and having a very vulgar demeanour.' I have no doubt that these words were repeated to him; Madame Constans is sufficiently indiscreet to have done it.

"We were then at the end of January. I left Rodez to repair to my dear mamma, where I remained till the fair of mid lent.* The curate of Crespins had given me hopes, that at this period perhaps, he could effect a reconciliation between my husband and me. I left you with this hope. How fallacious was it!

"The day of this memorable fair, Edward ——† proposed to me to go and pass the evening at Madam Seconds', where the ladies De Fermi were to be.—I consented to it, and it was agreed that my brothers should come for me at eight o'clock. It is a rule with the family of Pal, to shut the gates at ten. Their lodgers were subject to this restraint, which inconvenienced me but little, because I never went out in

* The 17th of March, the evening but one before the assassination of M. Fualdes.

† One of her brothers: the second is called Gustavus.

the evening. In going to Madame Seconds', I remarked, that they would not wait a minute for me, and that I should find a bed, if it was too late when we broke up. Edward and Gustavus accompanied me: the party was very gay, there was an assembly of young women and of young men; they sung and played at different games: when it struck ten, Edward said to me, 'Be easy, you shall sleep at the hotel of Princes.'

"My last request had been, to pass the night in a chair, conversing with him; I have passed more painful ones, and it is not yet finished. A short time after, Madame de Firmi, who appeared to me too much wedded to early hours, wished me good night, and went away. We followed her. They were not gone to bed at Pal's: I knocked, and they opened the door to me. My brothers, on taking leave of me, assured me that we should see each other again: indeed, they returned at 2 o'clock the next day.

"In entering my apartment, Edward told me, that he had just seen Marayè in Fontana's shop; that her intention was to go shortly, and take Madame Balsa to walk with her, to Foral. My brother, therefore, who sought a pretext to accompany these ladies, begged me to dress myself, and to go and wait for him at Madame Seconds'. I was not very anxious to go out, because it was cold: still, I told Edward, that I would come shortly. I went to Madame Seconds': I found her alone with her son-in-law. I could not understand where her daughter had gone to: Balsa told us, that he was going to put himself in trim to

conduct Josephine* to Madame Bonald's, and to Madame de Nattes's. Hence, I collected, that he was going to make a round of visits, and I said to myself—adieu to the walk! As to myself, I was but little vexed at it, I preferred the good fire of the parlour where I was, to the north wind which was blowing on that day, and which I should have had at Foral, at the first purchase. I sat down in an arm-chair, determined to wait very patiently the result of my rendezvous. I chatted with Madame Seconds, who told me that her daughter would not be long in returning, and that her visits would be short. I heard the clock strike five: 'Oh,' said I, 'this time it is too late for walking: the sun is taking his leave of us, I am going to take my leave of you too.' I took my leave, and shut myself up at home. I saw my brothers no more: I know not what became of them all day.—The next day, the 19th,† I was told that they had been seen passing through our street during the morning, and that they had afterwards, about four o'clock, gone to Le Perrié.

" In the evening, I went down into the kitchen, whilst they supped: I seated myself near the fire, and commenced knitting. At half-past seven, there was a knock at the door; it was M. Muret, a merchant of Saint-Géniez. As he perceived that they were still at table, he made a sign that he might not disturb them, and said he would return the next day. I passed the rest of the evening with the Pals, till ten o'clock, when I retired to bed, after having heard

* Madame Balsa. † The day of the murder.

a pious exhortation, and joined in the evening prayers with the family. The reality of this fact is as incontestable as that of your tenderness for your daughter; it is for you, my dear mother, to judge if I speak the truth.

"On the following day, the 20th, I went into the kitchen to take a coffee-pot, and this circumstance is perhaps not unworthy of being remarked by you. I saw Madame Thérondel, who said to me; 'Have you not heard the news? They have found a man drowned in the Aveyron.' I answered her, that for some time past, they talked of nothing but disasters, and that our department was particularly famous in this way. It was near seven o'clock.

"I went up again into my room: in about an hour, one of the children of the house came to tell me, that the dead person was M. Fualdes—'Ah! so much the worse,' said I, 'he was spoken of as a good man.' I had only once seen him, at his estate at Serres: he loaded my mother and myself with politeness. I made haste to go down in order to receive more full information. M. Muret was in the kitchen with M. Pal; they spoke of the murder; but they were yet entirely ignorant of particulars. The rumour of a suicide already began to be circulated, and they talked idly upon this subject—I returned to my apartment: I was taking my dinner, when the little Pals called me to go and see the corpse, which had been taken out of the water. I exclaimed: 'I will not go there; the figure would re-appear to me at night, and I should be alarmed'—Oh! said they, every body is going there—In fine, said I, we will go there.

" We took the road by the mill of Bessés. As we were not well acquainted with the way, we proceeded for a long time before being able to pass the river, and we arrived after they had placed the body of the unfortunate Fualdes upon a litter. His head was covered by the skirt of his coat, which they had thrown over it. I confess, that I did not then feel all the interest about him, with which he has since inspired me: I was ignorant of the nature of his death; and as he was already suspected of having provoked it, I accompanied the corpse without being much affected. If I had assisted the evening before at his horrible murder, could I have had strength to witness the next day, the removal of his unhappy remains. I, who after an interval of more than five months, have dropped down at the sight of the table where they pretend that he was dispatched.—I fainted on entering the house of Bancal, an incontestable proof of my presence in that house the 19th of March.—What fine proofs!

" I return to my recital. On the road, I enquired from some of the gendarmes, if they had found any money about M. Fualdes; they told me they had not, adding, that a person dressed in a green coat, had called him to the club-house about eight in the evening, and that he had not been seen any more. In reaching the town, I met D'Hauterive, who was walking very fast. I stopped him; he recognized me, and told me that his wife was at Gombert's,* and that he was about departing. I told him that I wished to

* The keeper of the bowling-green.

see her, and we descended the Ambergue. In going along, I asked him if he had been informed that M. Fualdes had been found in the Aveyron: he answered me,—'Well! what do you wish that I should do in it.'

"On entering the inn, I found Madame d'Hauterive employed in arranging her portmanteau; she told me, that she should have departed with regret if she had not seen me: that her husband had been unable to find my lodging; yet a moment after, she added, that she had passed the evening at my father's till ten o'clock. It might have been the fountain head for informing herself where I lived.

"We hardly spoke about the murder. M. and Madame d'Hauterive departed in about an hour. It was very bad weather: I made the observation to them: they assured me that they were in haste.—On regaining my house, I was told that one Lacueille, of Mur-de-Barrez, was suspected of having murdered M. Fualdes, because his father, who was indebted to him, had been arrested for a considerable sum, and that he could not clear off his debt to him. After some time, De Bastide was spoken of: but there are so many De Bastides in the world! I trembled at the idea, that it might be a relation of Madame Pons.

"Towards evening, I took up my pen to give you some particulars of this event: but I found myself every instant making new alterations, which caused me to lay aside my letter, and to wait for better information. Disconcerted at being able to pick up nothing but vague reports, I went to Madame

Dornes,* hoping to hear something more satisfactory. I found this lady in the square of L'Olmet, chatting with Madame Tieulat. You guess what was the subject of their conversation. I asked them some questions: they assured me that they knew no more of it than I did. One of the young ladies André, who dropped in, informed us that they had been searching a suspicious house, in the Rue des Hebdomadiers: that they had found blood in it, and that the magistrate had taken possession of the keys: here is the sum of what I learnt this day, the 20th. The 21st, I was told that Bastide-Gramont had been examined the evening before, but that he was not arrested. The 22d, which was Sunday, as I returned from mass, Madame Pal said to me, 'Do you wish to see poor Bastide de Gros, whom they accused of having killed M. Fualdes; he is purchasing a hat at Acquier's.' I stepped out of the gate, the shop of the hatter was opposite, I could distinguish the person who was pointed out to me as Gramont Bastide: I examined him, and on re-entering, I told my hostess, that she was deceived: that I knew him well, and that it was his brother Louis who was married at La Montagne, near Vezins. On this, a violent discussion arose between Madame Pal and me; and justice requires, that I should state the fact; we could have taken an oath, she that Gramont had purchased a hat at Acquier's, and I, that it was his brother: see what mistakes people make.

"On Monday, the 23d, I went to Madame Con-

* Her cousin, the sister of M. Amans Rodat.

stans. *Rose Pierret* entered shortly after me. I had a very slight acquaintance with her, but still I had seen her before your illness. Rose appeared extremely affected with the murder of M. Fualdes: she spoke of it to us with great emotion. 'It is horrible,' she repeated, 'they cut the unhappy man's throat on a table, with a wretched knife: the foot of the table was broke: they put him upon it again: he requested an instant to commend his soul to God. No, replied Bastide, brutally; he must die! They will secure all these wretches, or heaven would not be just.' Such was the language that Rose Pierret held to us. I acknowledge that the idea did not then strike me, that she might have been at Bancal's house during this frightful tragedy, and it was not till long after, that I had conceived suspicions of this adventure.

"I was at Olemps on Tuesday evening: Amans had left it in the morning, for the fair of Espalion. Madame Rodat was alone with William,* 'Well,' said she to me, as far off as she could perceive me, 'you are doing fine things at Rodez.' Yes, I told her, we render ourselves illustrious. Sophy demanded of me the particulars: I gave her those which I had from Rose Pierret, and which, following the words of Amans, denote *an eye-witness*:—retain this fully, my dear mamma.

"Rose Pierret had made use of one expression which is offensive to our language; she had said, 'The assassins were eager to persuade the public, that M. Fualdes was *destroyed by himself*, but providence has not permitted it.' William told me, that

* Her brother.

he had heard the beauty and the wit of Rose much extolled: 'for the rest,' he observed, 'one may be very amiable, and speak bad French.' Amans returned from Espalion: he had been there with your cousin Régis-Delbosc. On the road, they met Jausion and Bastide, who were going to Rodez: they stopped with them an instant. Bastide wished to joke untowardly enough with Rodat, who answered in a frigid tone, and said to Régis when they were alone, 'Here is a man who goes all the way to Rodez to have himself arrested.' For this time your nephew was a prophet: Bastide went to take up his bed in prison.

Some weeks afterwards, the little Pals proposed to me to go the almonry to see their sister, who is now a nun at Nevers. One of the ladies of the sisterhood told me that Bancal's children had made important discoveries concerning the affair of M. Fualdes; I expressed some wish to see them; they were brought into our presence, and I put various questions to them, to which they made no reply. Little Alexis, a boy of three years old, repeated what every body was then in possession of. Madeline said, that her brother was but a child, that he ought not to be listened to; that for herself she had neither seen or heard any thing, and that the murder had not been committed at her father's house.

Jausion was arrested the 7th of April: as were his wife and her sister the following day. About the middle of this month, you sent in search of me, and repaired to Perrie, where I informed you that Bancal had poisoned himself; the report of it was actu-

ally current in the city. A little time after we ascertained that he was dead.

I returned to Rodez on the 18th of May. I had often occasion to meet Rose Pierret again, either at Madame Constans's shop, or at that of the Guyons; where, in passing, I sometimes stopped to enquire the news. Rose continually brought up the affair of Fualdes; she appeared concerned that the accused were tried at another place than Rodez, and repeated to me, that there were two of them whom they had not taken. Yet all this did not cause me to suspect that she might know more than she had said concerning it.

"The entire month of June passed without our acquiring any fresh information. You arrived at Olemps on the 29th, and you have not forgotten the important conversation which you held with us some days after; it was on the subject of the deposition of Bousquier. Some one had told me, that this person, who was included in the accused, had actually deposed to his belief of having seen Jausion in Bancal's kitchen; and he added, 'I know it from an authentic quarter, I have it from one of the judges.' I then observed to my cousin, that I credited the existence of the deposition, but I could not engage to him for its veracity. He either heard me imperfectly, or I expressed myself in an indistinct manner; this is the case with me occasionally, and serious consequences result from it.

"I shall not speak to you, my dear mamma, of the moment of our separation, which was very melancholy: you departed, carrying my son with you. In

bidding you adieu, I perceived you shed tears; which made me presume you were actuated by alarming forebodings.

"During the summer, I had seen *M. Clémendot* at church, when he affected to regard me with an attention that was disagreeable. I did not fail to change my place when I found myself near him. One day, as I was at my window, he stopped to salute me: I wore the appearance of not having noticed it. There came after a time some comedians to Rodez, and an evil genius which had vowed my destruction, inspired me with so violent a passion for the theatre, that I could not resist the desire of going there.—I took a ticket.

"I now feelingly lament this first error, the source of so many misfortunes!——but the time is passed. M. Clémendot seldom missed the performances: one evening when there were not many people in the first boxes, he saw a vacant place near me, and seated himself in it; he soon entered into conversation, spoke much to me of Sophie Miquel, extolled her beauty, her shape, her elegance, and finished by requesting me to permit him to offer me his arm to conduct me home again. I thanked him, adding, that having come with the General and his nieces,* I should return back with them: which I did. The General had no lantern: I was in some difficulty to procure myself a light, when we saw a person following us, who carried one: I begged him to let me have the use of it, and recognized M. Clémendot,

* M. the Major-General Viala.

who had designedly followed us, for the Rue de Touat is not the way to pass from the theatre to the house of Bousquet Chaudon, where I have since learnt he lodged. The General lighted the wax-taper which I had in my ridicule, and took leave of me, as did also his nieces and M. Clémendot. The next day I thought no more of all this, when Edward arrived, who gave me accounts of you and my son; I had great pleasure in seeing him; we conversed a long time. When he left me he promised to return in less than an hour, to conduct me to the promenade; I waited for him more than three. I had little doubt where he was gone; I conceived that the society of an amiable woman would make the time appear very short, and that in such cases there is an excuse for forgetting a sister. I, therefore, repaired to Rose Pierret's. Edward was not there; I wished to return from thence, Rose detained me, and with a mysterious air, said, 'If you wish to see your brother, stay here.'——'But you have spoken with him then?'—She made me no answer. I pretended to be displeased, and she then admitted that Edward had certainly passed some time at her house, and that he was to return at eight o'clock to take her a walk to Foral, where I should also go, he said.

"I told Miss Pierret that I would return home to fetch my shawl, and that I would leave word for my brother at the Hotel des Princes, that I should wait for him at her house. Rose said I was right, and proposed our partaking of some sweetmeats, on our return from walking. I went out, and did not delay returning. Edward followed me very shortly: we

set out; it was beautiful weather, and the walks were soon filled with company. My brother, as usual, made observations which afforded us much diversion: we walked for about an hour, we several times crossed by eight or ten persons whom we were unacquainted with, when one of this group, detached himself from it, and advancing towards us, saluted my brother, addressing him by his name. 'Ah! Clémendot, is it you?' said Edward, 'and pray who were you with?' He answered, that he was walking with the ladies Moze, Rafenaud, and others: that he thought he recognized us, and wished to assure himself of it. 'But Enjalran,' said he, addressing himself to my brother, 'you cannot give both arms, allow me to offer mine to your sister.' Edward released my arm; and as I was in a disposition to be gay, I accepted that of M. Clémendot.

"After some turns in the walks, Edward asked him if he should soon depart. 'The day after to-morrow,' said he, 'I have a hundred visits to make, what a bore! I shall come and take leave of you, Madam,' he said to me, in a very low voice. 'Surely,' I replied, 'you are inclined to pleasantry? I yesterday spoke to you for the first time; and then I receive nobody.'—'I think you are too polite to deny me admittance.'——'Do not trust to it.'——'I will make the attempt,' added he,—'Indeed,'—I then told him, you will be losing your time.' Edward, as well as his companion, walked very fast. I perceived that M. Clémendot moved very gently along. I taxed him with it; he excused himself on the ground of having corns, which he said

gave him great uneasiness. 'In this case you did wrong to hook yourself upon us, who are travelling post.' He testified his regret at not having been sooner able to make so charming an acquaintance as that of Madam Manson, whose wit and elegance were extolled by every one. 'Add also her beauty,' said I, breaking out into a laugh, 'in order that nothing may be wanting to the portrait.' I kept speaking to him constantly in a tone of pleasantry; obliging him, however, to double his pace, in order to overtake Rose and my brother, who on their part were entertaining each other very gaily.

"It was late; I proposed our retiring, which was agreed to. On entering the town, Edward said that he was dying with thirst, and had a great mind to go and drink a glass of beer.—'Come into the house,' said Miss Pierret to us, 'we shall find some very good; and then,' said she, turning round to me, 'your sister has made an engagement to taste my sweetmeats.' I felt more under the influence of sleep than of hunger. I suffered myself nevertheless to be carried along, and we went up to Rose's, who set some excellent current jelly before us, which had not the effect of giving me a pain in my stomach, because I eat of it through complaisance. It was not the same case with the aid-de-camp, who helped himself to large platefulls, and swallowed down immense spoonfulls without any bread: any body else would have burst from it, but unhappily for me it did not gorge him.

"Edward, who is always full of jests, had on this evening a more than ordinary dose of mirth; he made

me laugh so much at the expense of poor Clémendot, that it ended with my seriously fearing that he might perceive it, and be displeased at it; but, nothing of the kind; instead of it, he commenced singing.—He said to us every now and then, lisping: ‘ are we for a turn to Foral?’—‘ Ah, and the corns,’ said I, Edward did not hear him, and thought no more of retiring. ‘ Let us take a turn to Foral,’ said M. Clémendot again. He repeated this for the twentieth time, when Edward, after having reflected a moment, said to us, ‘ ladies, the weather is beautiful, I will look for a carriage: let us go and breakfast at Espalion, we shall eat some delicious trout.’ I asked my brother if he had lost his wits, and if he had forgot that it would take five hours to reach Espalion from Rodez. ‘ It matters not,’ said he, ‘ we shall be back here in good time to-morrow.’ Rose, from apprehension of her father, who was to arrive in the morning, did not coincide with Edward. After a vigorous resistance, he was obliged to capitulate. My brother proposed to us to go only to the barracks at Flavin, assuring us that we should be back again before seven o'clock, and that M. Pierret would not then be in town. Sleep had entirely passed from me; I joined with Edward, in order to decide Rose, promising her, that if her father became acquainted with the adventure, I would take every thing on myself.

“ M. Clémendot made no observation: he appeared neither disconcerted, or pleased with our arrangements: he followed us however to Saint Pierre's, where we went to order a carriage.

“ Your son, who gave the orders in his character of

adjutant-major,* was instantly obeyed. We set off a little before day-break; it began to appear as we passed *la Mouline*. Rose was no sooner in the carriage, than despair took possession of her. I thought she was going to jump over the boot: she had the air of a victim who is going to be sacrificed, but she had to deal with pitiless ravishers. Far from being touched by her grief, they only answered it with peals of laughter. Edward was so full of drollery, that Rose forgetting Rodez, her father, and all her alarms, concluded by laughing as heartily as the rest of us.

"Our conductor drove us at a great rate: we arrived at Flavin at half past four. Edward had thought of eating part of a goose; he had reckoned without his host: it was Saturday; and M. Blanc does not think that a man who has had his feet frozen, should on that account be released from observing the sixth commandment of the church. They gave us eggs, salad, and cheese. As we had not slept, we called for coffee, which I believe was boiled in the frying-pan. They rummaged out an old bit of sugar, the colour of yellow wax, which the officers contended for. In vain they called for liqueurs; the host, never losing sight of prudence, told us that he kept none because of the rats.†

"At last, after being very indifferently regaled, we remounted the carriage, to the great satisfaction of Rose, who was in constant dread of finding her father at his house.

* He has filled this post in the old guard.

† Of the cellar apparently.

"Edward entertained us during the journey with his adventures in the towns where he had passed. M. Clémendot, who wished to put on the air of the favorite of the fair, imparted to us his successes with the ladies of Rodez, whose favors he had obtained, in order cruelly to abandon them. He instances Madam such-a-one, whose favors he had despised; another, who was disconcerted the moment he appeared: he compelled that one to cast down her eyes in his presence; the husband of this had surprised them; and as the Marquis in Marmontel's tales would say, '*at a critical moment.*' 'Oh!' repeated he, 'I have done speaking of myself; ill betide the woman; when I wish to have her!'—'Hold,' said Edward, 'he would persuade us, if we had not seen him. A pretty young fellow to turn the heads of the belles! Only look at him, ladies.'

"You must know, my dear mother, that M. Clémendot is extremely ugly; but it is requisite I should give you his portrait. In the first place, he is what we call in our country, *beffi*;* he has an enormous mouth, a most wicked nose, squinting eyes, a sallow complexion, a bald head, and he speaks through his nose. Now let us come to his stature, which is very little higher than mine; I avail myself of a comparison of Edward's, in speaking of his slender limbs, and I find that those of M. Clémendot are not badly likened to two barrels of a fusee; add to this the very extreme of short inexpressibles, and black-stockings: but of what consequence is his person, if the mind

* Having the lower jaw very protuberant.

was worth any thing? Here, my dear mamma, is a faint sketch of the person, who is called M. Clémendot; to whom, according to the world, I have made the most important discoveries; to whom I have confided a secret, which I was unwilling to reveal to justice, in spite of the inquisitorial measures which they have employed for that purpose for the last four months.

" We arrived at Rodez early: these gentlemen left us at the lower end of the side of *the Cordeliers*; I accompanied Rose as far as her father's house, who was not as yet arrived, and who has not arrived to this day: he sent to her to come and join him in the country. Regaining my own house, I threw myself on my bed, where I slept for some hours. They made no doubt in the family that I had passed the night abroad. About two, Edward entered, and told me that he was going to Saint Pierre's with M. Clémendot. 'Harkee,' added my brother, 'I shall not depart till towards evening; I wish to go to Rose's, to take leave of her; you will be there—I wish it much.' We placed ourselves for an instant at the window; Edward said to me, 'I must go away: I'll take a bet that Clémendot is in search of me:—stay,' said he, 'look at him passing along the street.' I observed that he was very gaily dressed; he had a very fine frill, silk breeches, gold buckles: but after all it was the same figure.

" My brother called to him; and on entering he took full possession of a chair, before I had a thought of offering him one. Edward told him, that he did not care about taking repose: that he must go to

Saint Pierre's. 'Well,' said M. Clémendot, 'you may very well go there without me: I am tired; it is so extremely hot; I can do no more.' As I saw that he sought a pretext for remaining alone with me, I said, 'I am going out, and give my company to no one.' This manner of explaining myself was understood by M. Clémendot, who required no more entreaties to accompany Edward.

"I went a little after to Rose's: she had made herself in readiness to go into the country. After a short interval, Edward dropt in; the everlasting Clémendot was with him: they came up stairs together; but my brother, who grew tired of his company, said to him, 'go about your business; you carry matters too far.' The seriousness of this apostrophe disconcerted the poor aid-de-camp, who thought fit to retire.

"In the evening my brother told us that he was going to seek for his horse. An instant afterwards I placed myself at the window, and I saw a man whom they were conducting to execution. 'How can you remain there?' said Rose to me. 'Oh! very well,' I replied. 'Must one pity him so much? It is doubtless a murderer. See, he has on a red gown. I should see the murderers of the unfortunate Fualdes pass by thus, with equal composure.'

"There was a great crowd before the Cordeliers to see Jausion, who was on this day examined. Edward came to tell us, that he had seen him in the street, and that Jausion was very pale. 'I should fear to see him,' said Rose, 'he gives me strange inquietude: I am sorry for him: I would not wish to be at

Rodez if he was executed.' I am at this moment persuaded, that if Miss Pierret was present at the murder, she owes her life to Jausion; or rather, not having seen him, she regrets his being accused. I am well disposed to believe, that the gentleman of middle height, whom Bousquier has taken for Jausion, was another person. We saw Edward again, who wished us good evening, without dismounting from his horse: he had again seen M. Clémendot; they had embraced, and taken leave of each other for a length of time, because the aid-de-camp was to depart with his general on the evening of the following day, for a very remote department. I remained still for some time at Miss Pierret's: she had a small white veil, such as that which I worked at the expense of the point of my needle. 'Ah! Ah! exclaimed I, you adopt my fashions.' She did not say any thing particular in answer to me, and passed into the room, where her chest of drawers was open. There was in it a large black veil, such as the Spanish women wear. I put it on my head.—'It is very pretty,' said I to Rose, 'where have you bought it?'—'At Paris.'—'Have you been to Paris? It must have cost you a good deal of money,'—'Ah! indeed, a good deal.' She snatched the veil with some haste: threw it into the drawers, and shut them. Her manner surprised me. I was then ignorant that there had been a female veiled at Bancal's house, on the 19th of March. I could not then entertain a suspicion respecting Rose: but it is true that her air of embarrassment, in speaking to me of her veil, surprized me at the moment.—I left Miss Pierret at 6 o'clock, and saw her again no more

till in the sitting of the 8th of September, at the court of judicature. Having returned home, I supped and was desirous to retire to bed early, when I heard a gentle knock at my door, and perceived M. Clémendot enter. It was late. I requested him to retire: he told me that he was in no hurry. On no account in the world should I have wished my hostess to see a man in my apartment at the approach of night. She might come in every instant. After having reflected, I resolved on going out of my room, and leaving M. Clémendot alone. That was fortunate: in about an hour I returned. I searched into every corner, and after being assured that nobody was there, I doubly turned the lock, and went to bed.

" Next day, as I returned from mass, one of my female neighbours said to me:—' You have had a visit from the General's aid-de-camp this morning.' —' Me?' said I, ' how! I conversed with him for the first time, at the play, last Thursday!'—' It does not signify,' she replied, ' if he was not going away, he would lay himself out to pay court to you, and to bring your honour in question: you would not be the first woman made notorious by him.' I assured her that this man occasioned me no apprehension.

" In the afternoon I heard the sound of boots in the corridor which leads to my room, and somebody rapped twice in the space of half an hour. I dressed myself, and did not deem it proper to make any answer. Some time after I called Madame Lacombe,* and requested her to go to Madame Constans's, and

* Her hostess.

buy me a sash. I forgot to shut my door inside: I heard a knock again. I sprung up to turn the key, but I had not time to do it, and *the man who is not a Sir Charles Grandison*, abruptly entered. I was, however, on the threshold of the door: my head became giddy at the idea, that my hostess was about to return, and that she would find me. I had so terrified an appearance, and made such earnest intreaties to him, that he consented to withdraw.

" Madame Lacombe was not long in returning. She told me that an officer had come, about an hour ago, who had asked her for Madame Manson, and that she told him I was gone out. 'I believe,' added Madame Lacombe, 'that it is your brother: he stopped for a moment at the door, bit his nails, and then went away.'—' My brother,' said I, 'departed yesterday. If the gentleman, you speak of, returns, tell him I am not here: with the exception of my father, I wish to see no one.'

" I went to the play with the ladies Miquel. They played *Joconde*, or *les Coureurs d'Aventures.* I was very attentive to the music of this opera, which is pretty, when, between the acts, my eyes glanced towards the pit. I perceived M. Clémendot, who disappeared almost immediately. The curtain which drew up at this moment presented to my view new objects, which made me forget this singular apparition. At the end of the last piece, I heard a noise behind me; I turned round, and I again saw M. Clémendot, who made a sign of vengeance to me, and went out.

" I paid little attention to his menaces, and retired

very placidly to my house. In about a quarter of an hour I went into the corridor to look for some water, when I opened my door, I was nearly falling backwards on perceiving M. Clémendot, who came into my room, compelled me to enter it with him, and locked the door. I should have called up the house, but my adversary was little to be dreaded, and then was I to make a ridiculous eclat in Rodez, where so little is requisite to render oneself a subject of common talk? (Alas! I divined it much better in the sequel. None can avoid their destiny.)

" It is from this horrible night, that my misfortune may be dated. What were all the vexations which I have endured during life, compared to those which for the last five months have overwhelmed me? what tears have I shed!——Oh! my father, my mother, my brothers, my son! dear and sacred ties which alone attach me to life, without you, without a residue of religion, I should have freed myself from this painful existence.——In the other world, they will no more speak to me of the trial respecting M. Fualdes.

" There had been a great supper at General de Wautré's; M. Clémendot was at it, and played a very good part, as he is accustomed to do. He could not support himself, and tottered at every step. He approached me, and endeavoured to embrace me; I pushed him back to the other extremity of the chamber. I persuaded him to retire, he told me that I lost my time, that he should not go away till three o'clock, the moment when the General would set off; he added that he felt a desire to sleep. In truth he

yawned exceedingly, and fell asleep, or made a show of sleeping. During this time I reflected on my situation, which was a very singular one; not, as I have said, that I was afraid of M. Clémendot; for it is pretended that in departing from Rodez he carried with him bitter recollections; he passed for a debauchee, a drunkard, and for being loaded with debts. I had learnt this in the morning: and they even added that his creditors wished before his departure, to give him a good acquittance on his shoulders. When the aid-de-camp had slept half an hour, I again entreated him, to retire. He told me that he knew something extremely interesting, and that he would confide it to me. 'You must know that the report in the town is, that there was a female at Bancal's house, during the murder: some say 'tis Miss Avit.' I interrupted him, in order to declare that I did not believe Miss Avit capable of being in so bad a place, and that besides, they would not have suffered a witness of the murder, who might have been able to publish the authors of it.. 'Many persons have maintained,' said he, 'that you had given some one a rendezvous there.' 'Ah! I shall not fail finding myself implicated in the affair of M. Fualdes.'—'They add,' said M. Clémendot, once more, 'that at the time you were in the house, the woman Bancal, hearing people approaching, concealed you in a place where you could see and hear every thing.'

"I fixed an earnest look upon him: he continued,—'It was indeed you! Come, confess that it was you.'—'Oh! assuredly,' said I, 'it was myself.'—'Ill starred woman. How interesting this renders

you in my eyes; it is said that Bastide wished to kill you, and that Jausion saved your life. If you were aware of the interest which I have in this affair! if you were aware of it! if you could comprehend all the interest which I have in this affair!'

"I made no doubt that he was either out of his wits, or at the least drunk. The sleep which he had on entering, confirmed me in this idea: he spoke very loud. I begged him to lower his voice; he then betook himself to singing. I gave him some chocolate to make him silent, and at last persuaded him to go away.

"I carefully closed the gate at the entry, which sometimes remained open on account of the different lodgers; and, besides, was so badly closed, that in pushing it it flew open when the bolt was not made fast. It is by the knowledge of this circumstance, that I have accounted for the sudden apparition of M. Clémendot in the corridor; he had taken care to be followed by one of his friends, whom he told, that he came to my house at midnight. This young man doubtless saw him enter the house in which I lived, at this hour: he was subpœned to depose to this fact; but he has not appeared at the trial, thanks to the President, who has not thought that it could serve to the unfolding the affair of M. Fualdes.

"Tuesday, the 29th of July, about seven o'clock in the evening, a bailiff arrived and handed me a summons. 'You are under a mistake,' I told him, 'I have no suit at law with any person.' 'It is for that of M. Fualdes.'—'Still more out of the way; what relation have I with M. Fualdes? I know nothing

about it;' the bailiff answered, 'give yourself the trouble to come to the court, M. Constant will explain it to you.' I regretted it extremely; but he insisted on it. I was introduced into a hall, where I saw M. Constant, the judge, whom I did not know, and who received me with much politeness.

"After the customary preamble, he caused me to be sworn. I trembled a little; it was my first oath, and it is not a trifling thing. At least I have not to reproach myself with being perjured. I have NEVER asserted before the court, that I was in Bancal's house the 19th of March: my compliance will never carry me to this point.

"They asked me what I knew of the murder of M. Fualdes: I answered with confidence, that I absolutely knew nothing. 'See,' said M. Constant, addressing me, 'what rumours are raised; the report is current that you were at Bancal's house.'—'And who has asserted this?'—'Oh!' replied he, '*'tis the rumour of the town.*'

"My interrogation was very short. I had nothing to depose. I had still time to go and take a short walk with the sisters of Madam Gourdon, one of whom had lately married M. Boyer. We were at the play together; a minute after I saw the ladies Miquel and their uncle enter; they seated themselves almost without saluting me. I was astonished at this caprice, and had no doubt some *underhand turn*,* had been done me with them, a common thing at Rodez. But it was a surprise of an entirely different

* A story at my expense.

character, when I perceived that the looks of all were fixed upon me, and that I was the object of general curiosity. Though I examined myself carefully, there was nothing ridiculous in my dress: they were in the habit of seeing me at the play. Suddenly I recollected my assignation, this was a flash of light. Oh! said I, in our great town very little is necessary to eke out matter for conversation. I turned towards M. Lacalmontie, who was behind me, and asked him, 'on what authority it was spread through the town, that I was at Bancal's on the 19th of March.' 'I know nothing about it,' he replied. I still put some questions to him, I urged him. The General, who was by his side, losing his patience, told me in a very animated tone: 'Madame, you have placed your secret in bad hands, it is now public. M. Clémendot is an indiscreet person; you should have chosen a better confidant.' I looked at him with an air of consternation. With difficulty I had power to say a few words in my justification: but this was neither the place nor the moment for it. The curtain rose. I was shrunk into nothing: I should have preferred reciting the rosary, or even the longest office in the breviary, to being present at this opera, and I would have given all the world to have had the power of withdrawing without being perceived: but there were no means of doing so; and I was obliged to remain under the fixed gaze of every eye.

"This was only a prelude to the punishment that awaited me: M. Clémendot entered: I believed he had taken his departure: not a bit of it: it was indeed his intention, after having made his deposition:

but he was detained, and I had to undergo the confusion of being saluted by him, and of having him nearly close at my side during a part of the first piece. I constantly turned away, in order to avoid seeing him, which doubtless influenced him afterwards, to go and place himself in a box facing me; and without turning my back on the actors, I was condemned to see this odious figure, constantly directed towards me.

"Never had a spectacle appeared so long to me. I made a vow, that I would never from that moment appear there during my life, and I will assuredly keep my engagement. When I went out, M. Clémendot had the audacity to approach and offer me his arm. My face was all on fire, I was ripe for giving way to my anger, and displaying a scene which would, perhaps, have been better for me; for they have reproached me with having observed too much respect towards this monster.

"M. Boyer, his wife and sister-in-law, re-conducted me home: for this time, I did not forget drawing the bolt at the gate, and also doubly locking my own door. I approached the window, which was open; in the street I perceived a sort of shadow, which said to me, '*Give me admittance.*' I precipitately closed the window and the shutters; I lay down, but could not close my eyes. From this day I have been afflicted with fever; and believe it will quit me no more.

"During the night, I had time for reflection; in the morning I arose, very melancholy and much exhausted. It was not yet eight o'clock, when I heard

a rap at my door: it was a fresh summons to repair forthwith to the court. I went there, and found at it the king's solicitor, M. Constant, and M. Clémendot, with whom they wished to confront me: on seeing me he was disconcerted, and made several fruitless efforts to assume an air of composure. For myself, I was almost suffocated with anger: but, well persuaded that passion would avail me nothing, I restrained myself, and put on a tranquil appearance. How often have I been upbraided on this account! It was necessary to insult the aid-de-camp, and snatch from his pate the few hairs that were left on it; I should then have clearly proved that he was an impostor. Bancal struck Bousquier with her fist, at the sitting of the 13th of September: she would have beat him soundly, if they had not put her in irons: is the world less persuaded on that account, that the murder had not been committed at her house?

"M. Clémendot affirmed, that I had assured him I was at Bancal's house on the 19th March; I affirmed the contrary; I confined myself to telling him that stories sometimes cost dear, and that he had better be on his guard. We went out together; M. Avit, the registrar, offered to accompany me, which I accepted. M. Clémendot wished to follow us; I declared to him, in so resolute a tone of voice, that I should rather prefer being shut up in one of the dungeons of the Cordeliers, to entering the town in his [illegible], that he troubled me no more, and quit-[illegible] us,

"Scarcely had I regained my room, when M. Ju-

lien* entered it. 'I come,' said he, 'on the part of your father, who desires that you may have an interview with the Prefect.' 'Really,' I replied, 'I am unacquainted with M. d'Estourmel: what would they have me say to him? I know nothing concerning the business of M. Fualdes. If it is on this account that I am demanded, it is very useless that I should go and weary the Prefect.' 'Be easy,' said M. Julien: 'in a couple of hours I will come and take you; I will myself conduct you to the prefecture: your father is very much inclined that you should go there.'

"I made no reply: M. Julien begging me to dress myself, left me; such was my design. I had never in my life spoken to the Prefect; I bestowed great trouble on my toilet, in order to appear before our man, though he did not, I rather think, pay much attention to it. I did M. Destourmel an injury, in assimilating him with M. de Termont, relative to etiquette, to which the latter, it is said, greatly adhered. The Prefect has since seen me very often in a morning dress, and in a careless undress, and has certainly taken no exception on this account. M. Julien returned at ten o'clock; I was ready, but he told me, we had time for a little conversation. My father had charged him to tell me, that if I was at Bancal's house, in spite of the shame that would attach to making such an avowal, I owed it to justice to do so. That he would pardon me; that he would make me no reproaches, provided I admitted every thing. I protested to M. Julien, that I had slept at home the 19th

* One of the judges of the civil court of judicature at Rodez, an ancient colleague and friend of M. Enjalran.

March, and that I had not gone out all the evening. I offered to have all Pal's family cited to support my assertion. He told me, that in a town, one found difficulty in proving an *alibi*: that besides, there was no question as to that matter: that it was proved, that I was at Bancal's; that they had informations thereupon: in short, that the woman Bancal was executed, and that, if in her last testament she had lately declared, that I was at her house at the time of the murder, there could be no doubt that I should be proceeded against as an accomplice, on my denial.

"Whatever I could do, I was unable to persuade M. Julien; he accompanied me to the Prefecture, and after the first compliments, he left me alone with the Prefect, who, of all the men that I have ever seen in my life, is the one who has impressed me with the most awe. I find myself timid in his presence, after having seen him at least sixty times; judge from this what I must have felt at the first interview! M. d'Estourmel received me with that grace, and that politeness, which characterize him: he employed the greatest gentleness to make me acknowledge that I was at Bancal's house: he assured me, that M. Clémendot had, in his deposition, spoken of me in the most respectful terms; that he was far from having held the language of which he was publicly accused; that, if I would admit the facts stated in this deposition, they would allow him to depart; that he demanded nothing so earnestly as to go and rejoin his eral. 'But,' said I to the Prefect, 'I have been , that M. Clémendot had deposed, that I had mentioned Bastide and Jausion to him, whilst their

names never escaped from my mouth: that alone, is carrying these gentlemen to the scaffold; five witnesses are to appear on the trial in support of M. Clémendot having declared this fact to them in a coffee-house; I have it from one of them, who has clearly understood him: and after all this, no doubt is entertained of my having been actually present at the murder; of Bastide having been desirous to cut my throat; and of Jausion having saved my life.

" The Prefect again assured me, that M. Clémendot had not mentioned all this story; he returned to entreaties that I would make a confession to him: he told me, that he had certain informations by him, which did not permit him to entertain the smallest doubt that I was acquainted with every thing; that it would be infinitely more advisable to admit it; that it was impossible that *a brave officer of the strictest honor*, had invented all this fabulous tale; that I must lay my account to a serious affair between one of my brothers and him; that, on the other side, my father was about bringing an action against him for calumny, and commencing a suit which would be the ruin of our family.

" From the commencement I had foreseen one of these misfortunes, since I hastened writing to Gustavus to prevent Edward's coming to Rodez. I also demanded my son of him, not doubting that they might threaten to deprive me of him for ever, if I did not make a confession. The sequel has clearly proved that my fears were well founded.

" In my first interview with the Prefect, I continued very firm in supporting the truth: notwith-

standing, when I had returned home, and reflected on all the disasters which my denial brought with it, I imagined, 'Let me sacrifice myself: the testimony of my conscience will suffice; all the world will believe that I was in an infamous house; I alone shall know to the contrary; and, dishonoured in the eyes of an unjust public, my own esteem will at least be left me.'

"Here, my dear mother, is the reasoning which I adopted; it is false, since you have found it so; but you were far from me; I had no time to consult you.

"My resolution being taken, I sent to entreat M. Julien would come over to me. He came instantly. I told him, that if he had an engagement from my father not to reproach me with my conduct, to enter into securities to pay my allowance punctually; and, above all, not to compel me to live at Perrié, (it was simple enough that a mother and brothers might institute any vexatious proceedings for a miserable prostitute), I promised to state every thing to the Prefect. M. Julien assured me, he had no doubt of my father's acquiescence in all my demands; but that not having a legal authority from him for treating with me, he would go and assure himself how he stood disposed towards me: that while I waited for him, I could write to the Prefect, to demand of him another audience.

"He left me, saying he would soon return. I wrote the letter, No. II. inserted in the information,*

* The reader will feel obliged to us for placing these different papers before him.

to the Prefect. I had not finished, when M. Julien returned to tell me that my father accepted all my conditions. I sent my letter to the Prefecture. The Prefect returned answer that he was always ready to

No. II.

" Sir,

" I think I have discovered that you took a very lively interest in M. Clémendot: this consideration, joined to the fear of occasioning the spilling of blood, compels me to unveil to you this day a mystery impenetrable to all the world.—Yesterday it was impossible I could do it; I was in a state which can bear no comparison: in vain have I wished to conceal it from you: you have seen how heavily I was oppressed. I will state the truth to you, Sir; but will you deign to believe it? May I rely upon secrecy? This is most difficult: is not my deposition in the hands of the Judges? Have I not signed it? What will be my fate? I know it not; but the life of my brothers shall be no longer in danger: my father shall have no apprehensions of the loss of his fortune: in short, it is necessary to restore the honour of a brave officer; what matters it that that of a woman should be compromised? All the blame will fall heavy upon me: I am prepared for every event. What can befall me? Am I not created for misfortune, and has not the measure of it for a long time past been completed?

" M. Clémendot desires to have an interview with me: I consent to it; but permit it to be in your presence, and that I may discourse with you without witnesses. May Heaven grant me the power of speaking! Can you believe me? I do not expect it; but at least I will occasion no person's death. My life alone is perhaps in danger. Deign, Sir, to communicate to me the hour at which I may obtain audience. I venture to hope that my letter will only be known by yourself: excuse the disorder of it, and be pleased to accept the assurances of my respect and of my homage.—It is with these sentiments that I have the honour to be,

" Sir,

" Your very humble and most obedient servant,

" E. MANSON."

give me audience, and that my hour should be his—*that the sooner the better:* these are his own expressions: I have his letter.

"As it was late, I resolved to wait till the next day, and I was for an instant at Pal's shop, whose house I had unfortunately quitted a month since. I say unfortunately, because, if I had not changed my lodging, I should not have been at the play, and I should never have had the fatal honour of an acquaintance with M. Clémendot. All the family at Pal's were *at that time* so convinced that I had not gone out, on the 19th of March, that they would have sworn to it. Rosalie* called to my mind a discourse which I had held with her the next day. I said to her: *My God, we have been singing all the evening like silly people: perhaps during the very time they were killing this unfortunate man.* This peculiar circumstance had entirely escaped my memory: Rosalie brought it to my recollection: the Pals believed, and assuredly do even to this hour believe, that I was at home on the 19th; but they would be yet more determined against attesting it in a court of justice, from fear of compromising themselves, and lest the world might say, *that they took me by the hand.*

"Besides, they are not the only persons who are alarmed; there are plenty more of them. The affair of M. Fualdes has struck every body with horror: people in office are not without inquietude: and such as could bear witness in my favour avoid me, from a fear of committing themselves. And I, I am in the

* M. Pal's youngest daughter.

prison of the Capucins, and am under no alarm: I am kept in close privacy, behind an iron grating, three doors separate me from every other human being, and I am under no alarm: I am accused of being an accomplice in the most horrible of murders, and I am under no alarm: no, once again, I am under no alarm.

"Do not talk to me of weak people; they are more dangerous than wicked ones. One is not upon one's guard with them. What evils are in reserve for a state governed by a sovereign who is without energy! A weak king is ordinarily the precursor of a tyrant: we have seen it in our own time: Louis 16th prepared the Revolution, by which Napoleon profited.

"What a digression! Perhaps not so great as it appears to you; for if the affair of M. Fualdes has been a bloody tragedy, the preceding reign was one of a kind of which it would be difficult to enumerate all the acts. But I forgot that the pronouncing a certain name is a most especial crime in the eyes of my rigid jailer, and of his rigid partner, always under *the dread of committing themselves and of losing their places.* As for me, I entertain no fear of losing mine. If I was with my dear mamma, and my little Allah, it would be different.*

"I no more recollect where I am. I was mention-

* "I one day asked Madame Manson why she called her son Edward, *Allah?* "It is," said she, "the name he gave himself when he commenced lisping out his little words, and was unable to express himself better. I have adopted it, and sometimes call him by it. They say that this word signifies *God* amongst the Turks; this dear little creature is my God.'

ing to you, I think, my visit to Pal's: I was well satisfied with them, and made no doubt that they would afford me their testimony whenever I required it: I left them under this impression. The following day I repaired to the Prefecture: I found M. Clémendot there: I expected it. My resolution was taken; I said to M. Clémendot, 'Since it is necessary to restore the honour of *a brave officer,* I allow that I have acknowledged to you having been at Bancal's on the 19th of March; but certainly I never told you that Bastide and Jausion were there.' M. Clémendot replied, that I was right; and the Prefect anew assured me, that no mention was made of them.

"In thus saying, he passed into an apartment adjoining that in which we were, and from which he could hear us; the door was besides left half open. Being alone with M. Clémendot, I told him that he must be satisfied, and that I made no doubt he would instantly depart. He was surprised, and must be so: my conduct had a right to astonish him; and he doubtless said to himself, like Master James, 'How should I *have devised this without a thought?*'

"He conjured me to tell him all. I recommended him to pack up his trunk, to join his General, and to leave me to myself. The Prefect, who distinctly perceived that our conversation was not that of two alvers, hastened to return, and to dismiss M. Cléof Mdot. An instant after, my father was announced: people red with a very severe air. 'So, truly,' said as could u dishonour your family in refusing that fear of cohich justice expects from you.' The Pre- inced to him that I confessed having told

M. Clémendot that I was at Bancal's. 'Yes,' said I then; 'but I imposed on M. Clémendot: I have not in my life been in the house of Bancal.'

"My father became furious at these words. 'Who will you persuade,' said he, 'that you have been able to make sport of this kind? Who will believe it?' I persisted, and it was then that he assured me he would go and throw himself at the feet of the King; that he would obtain an order to have me imprisoned for life; that I must bid an eternal adieu to my country and to my son. This did but gently agitate me: it could not enter into my head, that under the reign of a Bourbon such violence might be exercised. My father added, moreover, that I should bring my head to the scaffold. 'Well,' said I, 'I shall know how to bring it there: the idea of criminality will not accompany me to it, and I shall die without remorse.'

"It was then that my father, no longer able to contain himself, began to weep. 'Wretched daughter,' said he, 'and your family, for what do you account it? A father, who has never swerved from honour, who shewed you the path to it, you have reduced him to live in opprobrium, and you empoison his declining days. You have struck a dagger in the heart of your unfortunate mother! She is on the bed of sickness: there scarcely remains to her a breath of life. Your brothers are abandoned to the most frightful despair; and your son, your son, what an inheritance you have bequeathed him!'

"It would need another pen than mine to paint to you what passed in my bosom at this moment: as

soon as I saw my father's tears, I was no longer able to discern what passed; I felt despair almost equal to that which possessed me when I thought the little Edward dying in your arms. The Prefect, who was not an indifferent spectator of this horrible scene, persuaded my father to retire, telling him that he did not think violent means would succeed with me.

"When we were alone, he spoke to me with so much sweetness; his manners, united with the recollection of my father's anguish, made such an impression on me, that I concluded by actually acknowledging that I was at Bancal's house; but that I had not recognized any person there. My father returned: he had had time to calm himself: he demanded of me what I had been doing at Bancal's. I told him that I thought I had seen a man enter it, whose proceedings I narrowly watched; that some one had seized me in the corridor, and had conducted me I do not know where. I was in great difficulty; I had not any knowledge of the place, and yet it was necessary to make a deposition. My father, turning to the Prefect, said, 'She was doubtless in the closet near the kitchen.'—'Good,' said I to myself, 'there is a closet: this is useful to know.' 'She must be carried to the house,' added my father. 'This evening,' answered the Prefect, 'I shall be very happy to be there also.' 'Do not give yourself this trouble,' said my father; 'we will go with M. Julien, and Braquière, the registrar, who will carry the keys.' The Prefect, however, insisted on accompanying us. It was agreed that M. Julien should come for me at

nine o'clock, to conduct me to the Prefecture, where my father was to be, and that we should all go from thence to Bancal's house.

" M. Julien was exact; he gave me his arm as far as the Prefect's, who was waiting for us in his closet. My father arrived shortly. They again put some questions to me, and asked me what I had done in the closet. I replied, 'that I found myself very unwell in it: that I had neither seen or heard any thing: that some one came to take me again without saying a word, and had conducted me into the street.' As I said this, Mr. Braquière entered with the keys. 'Go before us,' my father said to him; 'we follow you: open the gates.' He told me that it was impossible that they should not have spoken to me. 'Come, then,' said the Prefect, 'acknowledge what they said to you.' 'No,' I replied, 'nothing was said to me.' 'Ah well! they have written to you then.' I reflected a little, and then answered, 'They wrote to me on a little scrap of paper: *If you speak, you will perish.*' In wishing by some avowals which I feigned to make, to withdraw myself from persecution, I drew down incessantly fresh questions. It was after ten o'clock when we reached Bancal's house. M. Julien gave me his arm; the Prefect and my father entered first. I trembled. Picture to yourself, your daughter in a place where she believed they had murdered a man. When I saw the large table where it is said the unfortunate Fualdes was extended, the house, gloomy and deserted, like the cave of Trophonius, I was seized with such a fright, that I fell against the foot of a bed, by which

I gave myself a violent blow on the shoulder. They went in search of vinegar; revived me, and again questioned me. I was so eager to get out, that I answered yes to every thing they asked me.

"As they wished to assure themselves if from the closet every thing could be seen and heard, M. Julien shut himself in it. I was delighted to be freed from making this experiment myself. At length, however, I entered this celebrated closet with all those who had accompanied me; I told them that I believed it was the same; that it had such a window, and that they had not made me ascend any steps. At last we departed from this dreadful haunt, where I was in constant trepidation, lest they might confine me (you know that I half believe in ghosts). The Prefect, who perceived my terror, told me, that they would reconduct me thither, and often, if I did not state every thing. He gave me his arm. We continued at his house till midnight. I told them, however, nothing more, if it was not, that the individual who had conducted me into the street, had followed me as far as the Square of Cité, by the side of the Wells.'

"We went away from the Prefecture: and in traversing the court, I said to M. Julien, 'I will return here no more: the Prefect makes me say too much about it.' I added, in a low voice, '*Even what I do not know.*' The next day I received another invitation from the Prefect, who having heard what I had said in going out, desired to speak with me again. As I was dressing myself Victoire entered: she made me promise to step over to her house, and impart to

her the result of my conference: I engaged to do it provided it was not night.

"Arrived at the Prefect's, I completed the deposition, which you have read in the information, and signed it. I passed *eight hours following* in speaking of the same thing; and you know, my dear mother, how amusing that is to me. At last the Prefect informed me, that M. Clémendot had told him, that I was disguised as a man on the evening of the 19th March. I replied that it was false. The Prefect told me, that this circumstance could not have been invented. As I saw no inconvenience in admitting it, I said, 'Very well, *Yes*, I was dressed as a man.' But my dress having never had existence, and fearing they might demand to see it, I hastened to add, 'My pantaloons are burnt, I have nothing left but the spencer, so do not seek for it.'

"The Prefect regarded me stedfastly, so as to make me change countenance, and said that I had destroyed these pantaloons because there was some blood on them. I answered again, 'Very well, *Yes*, there was some blood.' I perceived, in these words, that I might be considered as an accomplice; but I was then so worn out with depositions, so fatigued, so overloaded with importunities, that I said all that first occurred to me, with the idea of the sooner escaping the Prefect, and in order at last to go and take some food; it was time for it; at five in the evening I was still fasting.

"Victoire came at the approach of night, very impatient to know what I had done at the Prefecture. I repeated to her word for word all my deposition;

and made her take notice, that if she spoke of it she would be subpœned. I wished to make proof of this woman's discretion. What I told her was absolutely no secret. I do not so easily make intimates; but every thing conspiring to shew her that it was her interest to be silent, (for she had told me, that she would on no account in the world be summoned as a witness in this affair;) yet I was unable to make her silent. Next day I met her again in the morning: I asked her if she had been faithful to her promise: 'Oh, yes,' she said. 'I'll wager, however, that you have told your husband something—that is true; but he will say nothing about it.—Well and good, have a care.—You would cut a figure before the Court.' *

"Victoire had tears in her eyes on hearing me speak thus, and left me. I had passed a very indifferent

* Madam Manson does not here perhaps insist enough upon a very remarkable circumstance: it is easy to perceive that she has not employed or consulted an advocate to draw up this memoir. The weightiest of the charges which offer themselves in support of the presumed truth of her deposition to the Prefect of l'Aveyron, is the recital that she made to Victoire. We form an idea that she may have yielded to long and numerous interrogatories, to the earnest instances of a magistrate who awed her, to impatience at witnessing the truth incessantly repelled, to false shame at making a recantation, and finally to the threats of paternal authority so strangely infatuated. But Victoire? What influence had she? What necessity? What interest was there in making a similar tale [illegible] l? But she has not told this tale; she has not said [illegible] e, "I was at Bancal's house; I saw every thing; they [illegible] my life, &c." She said to her, "*I have told* the Prefect that I was at Bancal's house." What an amazing difference is there in repeating that one has affirmed a thing, or in fully confirming that thing!

night; I began to foresee the consequences of my confessions at the Prefecture: I wrote in the evening the billet, (No. III.) and I obtained a fresh audience from the Prefect.*

"But how could I dare to tell him that I had asserted a falsehood? How expose to him my motives? A cool head like that of M. d'Estourmel's would never believe the effects of an exalted imagination: he had however borne a part in the scene with my father: but he may not think that it might have power to produce a false deposition.

"I must confess to my dear mother, that I had *in principio* a powerful motive, which determined me to sustain the character of a witness in this affair. My father was strongly suspected of taking an interest about the accused, particularly about Jausion; I knew it; and when I saw his despair, I made no doubt that he was informed of the discourse which was held on his account, and that he might also accuse me of refraining from speaking out: I perceived his situation, I was in torture.

"In the mean while, the idea of taking a false oath pursued me, and was uppermost. I then wrote the

* "Listen to me, Prefect! in the name of heaven, listen to me! and have compassion on the distracted state of my mind. In you alone I place implicit confidence. If there is yet time for it, endeavour to prevent my depositions from being drawn; I am almost beside myself: I have as yet taken no food to-day. It appears impossible to me to connect two ideas. To-morrow, if you will grant me but till to-morrow, I will open my entire mind to you. Oh! have pity on me; I am only imprudent. But time presses.

"I have the honor, &c.

"E. MANSON."

letter, (No. IV.) to the Prefect,* and carried it to myself. I forgot to tell you, that in going out of' house the day before, I was accosted by M. Arseau,

* "I am unworthy of your kindness, Sir: abandon an unfortunate; load me with all the weight of your anger. Finish with alienating my mind: it is not far removed from it. I would go and throw myself at the feet of the first President, to confess every thing to him; but no, it is to you that I will declare it; but be moderate; in the name of heaven, be moderate. Forget the three troublesome days that I have just made you pass: call to mind the difficulty you have had in drawing from me what you call the *truth*. Call to mind all the circumstances which have preceded my pretended confessions, all the menaces which have been made me. Do you at last discover that my deposition bears a character of probability? But it must absolutely have one. If you order me, if my father believes his honor really committed in this affair, I will maintain this deposition, at every species of danger to my own life; if it is in danger, which is possible, believe me, it is not that which terrifies me; I have weighed every thing, considered every thing. It is alarming, without doubt to be perjured. Can the motive serve me for an excuse, and the fear of dishonouring my father, of being separated from my son? Advise me, Sir; do not reduce me to despair. I will do every thing; yes, every thing for you whose kindness penetrates me with the most lively gratitude, and with the desire of rendering myself worthy of it; and for a father who has never done me justice. I repeat it, I will perform the will of both.

"It is certain that my deposition implicates no one; that the public is persuaded that I was at Bancal's house; that a witness arrived yesterday evening, paid, without doubt, in order to say that he had an appointment with me. This is incredible; for it will be fairly proved that it was another; we were not both there. I am going to be accused in full court, before an immense crowd; and i the honor of my father will be much farther committed, and is lost for ever: my head is no longer equal to the subject, I r from it; I shall not have power to speak; I am before you, Sir; dispose of my life, it is in your hands: I have not dared to

defendant on the part of Madame Jausion, who said to me, 'how do you allow yourself to be interrogated at the Prefecture? The Prefect is not appointed for that purpose; you ought to protest against such an injustice.' I paid little attention to what M. Arseau had said to me: I quitted him without making him any answer; without even, I believe, having saluted him. I was hungry.

"I have informed you, my dear mamma, that I carried the letter myself to the Prefect; he read it in my presence: he was expecting important disclosures; and he assumed so severe an air when I wished to say that I had not been at Bancal's, that I concluded (terrible and incredible weakness!) by afresh acknowledging that I had been there.

"I withdrew in a state of despair: it was very late. Your cousin Planard came to my house for an instant: she commenced a very serious lecture; I told her that it was of great length, to judge of it by the exordium; but she had chosen her time for preaching opportunely! The fever was circulating in every vein, and did not permit me to remain quiet. I paced my apartment with lengthened steps, and at last, losing all self-possession, I abruptly quitted Marion, and rushed into the street. It was almost night: I went and knocked at the Abbé Brast's, my confessor: his maid told me that he was abroad, and would not return till nine o'clock. On my return I

entrust this to any body. I have yesterday and this morning become acquainted with all the circumstances laid to my charge: it matters not; I will state them to you. Your pardon, Sir; a thousand times, your pardon.

"E. MANSON."

met Madame Pal, and her two daughters, who proposed to me to go into their house; I followed them; my head was entirely gone; I exposed my situation to them, they pitied it; I saw them all weep, except the father. They told me they regretted having known me.

"I left them to repair to M. Brast's; I told him that I came too tardily to seek his advice; I recounted to him my history: he told me, that whatever might result from my deposition, I ought not to support it, if it was false: that nothing could authorise perjury, and that I was under a mistake, in believing that my testimony implicated only myself; that my deposition was very strong against the woman Bancal, since I had clearly proved that the crime had been committed at her house. I admitted that he was right; I promised him to be more prudent in future; he engaged me to resume confidence, to address myself to God, who can do every thing; to remain faithful to him; and above all, to swerve no more from the truth, whatever threats might be made me.

"I left M. Brast. This excellent man knew how to calm my mind: his conversation restored me to peace. The next day was Sunday. A woman who had the appearance of a servant, brought me a note,* without saying from whom. I answered, that I could

* No. V.—"Before departing this morning, I request you will do me the pleasure of coming over to the house where Galtier's children lodge: it is the third house on the right hand, in going from the Cathedral to the Lyceum: it is near the house of M. Jouery. I should be very glad to see you before my departure.

"I salute you, &c."

not accept the invitation which it conveyed to me, but that I declared ignorance of any of the assassins of M. Fualdes.

" I went abroad to go to the mass; and on my return, I found my sweet little Edward, who had just arrived. I found myself very courageous with him: I could have braved an army. My father, advised by the Prefect of my vacillations, sent in search of me; I took my son with me. I went through a most distressing scene; and in order to obtain my dismissal, I again engaged to support my deposition before the Court at Montpellier; hoping, that before the time of the trial, I should find means to appease him. My father threatened me with again removing my infant; I had him in my arms; and I said, 'let the stoutest attempt to tear him from me. The little creature clung to my neck, and after a little time fell asleep. When my father gave me leave to go, I very soon profited by it: I awoke Edward; and we remained together at home, where I soon found a person enter, who was sent on the part of Madame Pons, who desired to see me. I answered, that I could not receive her during the day, because it would be too much remarked, but that she might come at nine o'clock, during the play.

" In the afternoon I saw the Prefect; I told him that I was fully determined on supporting my deposition: but I offered from time to time certain reasonings, which continued proving to him that my resolution was not very firm; for he said to me, 'you have seen somebody; they have circumvented you?' I acknowledged to him that I had in the morning re-

ceived a note, the hand-writing of which I was unacquainted with; (and that is true) although it has since been said, that this note was from Madame Pons, and it is possible. Otherwise, I very positively believed it from M. Arseau: on which account, without further examination, I handed it over to the Prefect. I confessed to him also that Madam Pons was coming in the evening. 'You do wrong,' said he, 'to receive her.' I then replied, that if this lady committed herself in coming to see me, I would not receive her; but that, as the danger only regarded myself, I should certainly not shut my doors to her: that in short I examined but little if Madam Pons was the sister, or the sister in law of the accused; that I only saw in her my benefactress.

"This avowal was doubtless the greatest of my follies: if I had not spoken of this visit to the Prefect, he might not have stationed gendarmes under my window, and all the world might have remained ignorant of my having conversed with Madam Pons; they might have drawn no conjectures from our interview, and might not have invented her having brought me 6000 francs, as the price of my silence. I left the Prefect as the sun was setting: I recollect the time, because I stopped an instant to reflect, before descending the steps of the grand entry, which led into the court. I was contented with the idea of embracing my son on reaching home, and of having him near me during the night. I put him to bed; and about nine o'clock there was a rap at the door. It was Madam Pons: she was a little disguised to come to my house. As I found her changed and

fallen away, I should not have recognised her: she entered with a female domestic, who sat herself down at a great distance from us, and fell asleep. Madam Pons first asked me if I was at Bancal's house? I told her no. 'But you have admitted it.'—'That's true'—'But you are foolish.'—'Certainly, I am foolish.'—'But what then is become of your character? I no more recognise you, I have seen you so composed under misfortune; and you will support a false deposition before the court.' 'Oh! no,' said I, 'do not imagine that my folly will carry me that length.' 'Have a care, Madam; indeed you dishonour yourself; nothing in the world ought to induce you to take a false oath.'

"After about a quarter of an hour's conversation, Madam Pons wished to leave me, fearing a surprise; for I had frightened her, on her coming in. I told her that she perhaps would be the cause that I should sleep the next day in prison. This menace made her desire to withdraw herself as quick as possible; but I began laughing, and begged her to wait till they had left the play, and there was nobody in the street.

"We conversed on the death of Madam Colrat, and on many other topics which have escaped my memory. I only recollect asking her if it was true, as I had been told the day before, that Jausion on learning my summons before the court, had demanded a poniard: She assured me that it was an absurd story, and that her brother in law was perfectly composed.

"Madam Pons left me soon after mid-night. I rose next day about seven o'clock and wrote the paper

No. VI. * in which the Prefect has not, he says, recognised my style. They have subsequently asserted

* No. VI.

" It is in the sanctuary of justice—it is in the presence of its repectable ministers, of the God who hears, and who will judge me, that I will declare the truth.

" I declare that my first deposition is the only one, which the law can take. All the confessions which I have made, have been snatched from me by violence and by the fear of occasioning murders.—In reality, with what have I not been threatened? On one side I see my brothers engaged in a duel with M. Clémendot, in which some one must necessarily perish; I tremble! On the other, I am told of an order from the King which exiles me from my country; which for ever deprives me of my child, the sole blessing which remains to me. I am refused all means of existence. A father with tears tells me that his honour is attached to my deposition. And finally, I am conducted in the middle of the night into a place of horror; they draw consequences from the effect which the sight produces on me, and they have the barbarity to tell me that I shall be put in a place of solitary confinement, if I do not speak. I am assured that there are witnesses who testify against me; that the fact is proved. The public, whose malignity incessantly seeks for food, invents the most atrocious facts. I am alone without defence, without advice, without support. What head could resist so many evils accumulated on it: I have lost mine. A fever, want of sleep and of nourishment, and despair, alienated my mind: I said things which I do not even recollect. I lost for an instant all energy; but I shall regain it, and I will make use of it.—What? before an august tribunal, before an immense assembly of people, shall I take a false oath! and that for the purpose of affirming that I was, at the hour of night, in a place of prostitution, at the moment in which an horrible crime was committed in it! And the honour of a family is not compromised by such a deposition. I repeat it at all risks to me and mine: I formally deny being at Bancal's house, not only on the 19th of March, the day of the murder of M. Fauldes, but even anterior to this outrage. I was ignorant of the existence, and the situation of this house. I desire as much as any one that the guilty should be

that it was M. Romiguière, who however did not arrive till some days after it had been transmitted to the minister for public affairs.—It is so truly my own, that I had not yet finished it, when a bailiff came to warn me to repair to the court of judicature forthwith; and without giving myself time to read it, I put it in my ridicule, and rose to depart.

"At the moment they came to announce to me that my father wanted me: I was with him instantly, and told him not to detain me, that I was in a hurry, and that M. Constant was waiting for me. He seemed to distrust my air, and asked me what I should declare in court, 'The truth, and nothing but the truth.' And I gave him the sort of declaration which I had just drawn up, in which there is a phrase which is not yet finished; but they gave me no time to do it.

"I was far from imagining that my letters would pass to posterity, and that my name would make a noise in the world!

"I leave you to conjecture the face my father put on, on reading this paper: he became furious, forbad

punished; if I knew them, if it was in my power to throw light on the steps of justice, no consideration should be able to arrest me.—But being at six in the evening of the 19th of March at the house of M. Pal, in the rue Neuve, from whence I did not go out till nine on the morning of the 20th; let M. Clémendot fight with my brothers, let all my family perish, I will never certify a falsehood which dishonours it for ever. I am decided to submit to all events. The truth will discover itself, I hope. In expectation of it, I declare that I persist in my first deposition; that I will support it during the trial, and for the remainder of my life; I sign it.

E. MANSON."

my going to the court, and told me that he was going to speak to the judge, who arranged the proceedings for the trial. I profited by his absence, to take my departure. The sight of my child made me forget the terrible moments which they had made me pass.

After dinner, the Prefect requested me again to come to his house, this was the 4th of August: I repaired thither, and was shewn into his office—He was alone; I presented him my declaration, which my father had returned me. After reading it, the Prefect quitted me, saying that he would return, that I must take the trouble of awaiting him, and of making some serious reflections.

I walked about for a considerable time in the apartment in which he had left me, before his return: I had even leisure enough to take a lesson in geography, and study the map of the department of the Aveyron.—I heard steps in the great hall, and losing patience, went out in order to go away, when M. Dognat * came to me and very politely begged me to wait another instant. I returned into the closet, where the Prefect did not delay repairing, accompanied by the king's solicitor, M. Julien, and my father, who commenced saying very severe things to me, when the Prefect begged him to withdraw, 'because, said he to him, 'you are not cool.'

" He went out—M. Maynier † reproached me exceedingly; there was no kind of misfortune which he

...t of the gend'armes.

...itor to the king.

did not place before me; but I remained unmoveable. I constantly bore in remembrance the advice of Ab[illegible] Brast, and always supported the truth. Nevertheless I feared that my father would deprive me of my little one, which caused me to write several times to the Prefect to engage him to protect it.* I perceived also that I had offended a magistrate by my falsehoods: I wished to excuse myself, I knew not what part to take with him.—

* No. VII.

"Once again, Prefect, you deign to hear me with kindness; do not load me with that contempt which paralises me in your presence. Who is more sensible than myself of the value of your favour—to whom have you furnished greater proofs of it? Can you credit, that at the expense of all the interest which you have testified for me, I should have amused myself in romancing with you; and that my sole motive has been to make sport of you, in making you lose your valuable time? You cannot think it; No, Prefect, you cannot think it. But how happens it that I should not have the power of soliciting your advice, as many times as I tell you that I am a witness in the affair of M. Fauldes? Is it ever too late to speak the truth? Can you believe it? Oh! For pity's sake, in the name of that sensibility which characterises you, do not abandon me, be still my protector; my lot depends on you; and if I have offended you, accuse my imprudence alone, save my family, Prefect; it is for that that I implore you: have pity on my unfortunate father, on my son!

Could you advise me to stand to a false deposition? In vain should I promise it to you. I am on the brink of a precipice; will you not aid me to escape from it? Have you not told me that you had absolute authority, and that if I had committed a crime, you could obtain my pardon? Prove to me, Prefect, that the interest which you have been so willing to testify about me, was a little unconnected with the important affair; that my family has some claim on your kindness. I always make common cause with it; my interests

"One day, my father sent in search of me; I went to him, and found there Gustavus. I underwent a most distressing scene from both: there are no sort of invectives which I had not to submit to: finally, Amans entered in order to complete the trio, and certainly he bore a good part; there was a perfect union and agreement amongst them; they did not once change their tone. This lasted four hours. My son, who had followed me, and whom the conversation did not amuse any more than myself, grew impatient, and pulled me by the gown to make me come away. I said, and I repeated it to my father, that the most certain death should not make me assert a falsehood before the court; that in vain should I promise them to do so; that they need not reckon upon it. 'For the rest of you,' added I, weeping, 'you ought to leave me at peace; you *put me to martyrdom.*

are its own. Ah! If I alone had to complain, I should know how to choose my part.

"Pardon me, Prefect, if I repeat that my design has never been to offend any body, and especially him who has acquired many claims on my gratitude—Will you accept the assurance of this sentiment, and that of my respect.

"I have the honour to be, &c.

"E. MANSON."

No. VIII.

"Yes, Sir, I am decided; one instant more, and I had said every thing.—But my safety.—But to morrow I will tell it you. You answer me in every thing, especially in the secret. You shall see whether my deposition is true or false. I have never been at Bancal's house, and yet I am suspected of having been there. O my God! have pity on me.

"I am, &c.

"E. MANSON."

I will tell you if you wish it, that I alone murdered M. Fualdes: but in court I will speak the truth, nothing but the truth.'

"Amans, when he gave his deposition in court, entirely changed the sense of these words. He pretends that I told him: *I will say if you wish it, that it was Jausion who conducted me close to the wells of the square of Cité.* I have not mentioned his name, only on that day; but your nephew, fearing, perhaps, to commit me, has entirely changed this phrase, and important consequences have resulted from it. The counsel on the civil side knew how to turn this deposition of Amans Rodat to good account: it has not a little contributed to produce Jausion's condemnation. I effected my escape from my father's, to the great satisfaction of my Edward, who said to me, 'These people will always torment you; tell them that you were at Bancal's; this will content them, and they will leave you alone'

"Some days afterwards I saw Pal's daughters, who cast many reproaches upon me; they assured me that they had disputed with every body, to prove that it was *impossible* that I could have gone out in the evening without being perceived, and that by my acknowledgements I made them appear silly, or what is much worse, capable of *taking me by the hand.* I urged them not to *commit* themselves, and told them that our own interest touching us more narrowly than that of others, we ought not to lose sight of it. *Palson** came to my house: he passed three hours

* The youngest Pal. His family use this diminutive name with him.

there, and for the purpose of making me acknowledge that I had seen M. Fualdes assassinated. He told me that there were terrible depositions against me; that Madam Colrats' steward pretended to have given me a meeting at Bancal's house. I know perfectly well that M. Librejol loves to joke; but in such a matter as that, I could not believe him capable of it.

" Palson told me that three witnesses had seen me pass through the square of Cité, at eight in the evening of the 19th of March. 'In short,' added he, 'I know something which would compel you to speak if you knew it.'—'Tell it me then.' 'It was entrusted to me under a promise of secrecy; perhaps if you told me yours, I should decide on entrusting you with mine.' I saw that it was an artifice on his part. I assured him, that as for myself I knew nothing, and that he could not have been told that I was gone to Bancal's house. When he had left me, I reflected on all that had befallen me, on all that had been said of me, on that so perfect conviction of the public, who made no more doubt then, than at this day, that I was present at the murder of M. Fualdes. I concluded that a woman was actually there, and that she had been taken for me.

" This idea was continually increasing, and it is at this moment changed into certainty, or one must otherwise credit the existence of numerous false witnesses.

" Dating from the day on which I received my second summons, I went no more abroad than to go to the Prefecture or to the eight o'clock mass on Sundays. I was become an object of horror and of

contempt: I was, said they, an infamous prostitute; and still more, I supported assassins.

"My situation was horrible, and without my son, who alone found the means of soothing me by his caresses and his little infantile reasonings, chagrin would soon have devoured me.

"I wrote to the Prefect the letter No. IX*; he

* Sir,—By what fatal imprudence have I voluntarily thrown myself into a labyrinth, from which, without an express miracle of Providence, it is impossible to extricate myself? The heaviest of my misfortunes is doubtless that of having incurred disgrace in your opinion; nay, still more, contempt. What an error! Why have I betrayed truth? What consideration has had power to persuade me for an instant to wander from the track which had been traced for me, and for magistrates who did not even believe that I sacrificed myself for them, and who overwhelmed me with their injurious suspicions? My mind is shipwrecked; black despair has taken possession of me; I no longer know myself.

"It seems to me you have been heard say that you made discoveries which grieved you for the sake of humanity, of which you would willingly have entertained a better opinion. Ah! Sir, what have I learnt in eight days? What experience is that which misfortune produces? I have passed my life far from a world which I did not seek to know; and without my foolish curiosity for plays, I should still live almost in ignorance of it. But what then does this world wish from me, that it is so exasperated against me? In what have I offended it? How have I merited its hate?

"Surely I never excited envy: I am without fortune: nature has neither granted me beauty or talents; and if some persons prepossessed in my favour have said that I have wit, I have proved clearly enough that I have not even common sense. I have enemies I know not why; but this truth is too evident to call it in question: they have framed a web, of which I have conducted all the threads; it is I, I who forge darts directed against myself.

"I perceive myself obliged to struggle against my disconsolate

was absent. It was shortly after this period that some persons unknown were in the habit of transmitting

family, against a city, a department, against all France, which calls out for vengeance and which will obtain it. Heaven is just! this crime is unparalleled.

"Alas! what! and should I then be the only one who would support the assassins? Could I embrace their defence? I, who was so shocked with their atrocity, that I unceasingly repeated that the penalty inflicted by the law was disproportioned to the crime, and that the law of retaliation should have been preserved?—Ah! if in this affair I am not entirely justified, I demand death; is it not preferable to an existence covered with infamy?

"Pardon me, Prefect, if I abuse your patience; the purpose which I at first proposed to myself has been that of appearing less culpable in your eyes, by the avowal of my error; if I have not forfeited my right to being believed, after having failed in candour with you, who have done every thing to merit it from me. My other end will doubtless be more easy to fulfil; it relates to a favour which I yet am hardy enough to solicit, and which I hope to obtain. It is not life, it is not liberty; I repeat it to you, Prefect, these blessings have little value for me; but my son Edward, am I condemned to live separate from him? I no more make account of my country; it does not do me justice. I will become a cosmopolite, and my country shall be the place where I can find peace and impartiality.

"I throw myself at your feet, I implore your support; perhaps you may one day be a father; you will never have but a very imperfect idea of my torments. I have offended you; but have I not already acknowledged it? and revenge is a sentiment which cannot find place amidst so much kindness, greatness of mind, and sensibility.—Prove to me that these virtues still exist in the nineteenth century. I have not doubted it in relation to you, and assuredly I shall never doubt it.—It is to you alone that I will address myself, to you whose anger I have provoked; you will have pity on me, you will prevent their taking away my child.

"*If I had committed a voluntary crime I could still obtain pardon:* and shall then an imprudence, nothing more than an imprudence, a momentary assertion, an erroneous reasoning, be so severely

me certain notes, which contained only requests to repair to houses which were pointed out in them, and which I was unacquainted with. I returned these requests, saying that I could not go abroad. Many persons had apprised me that Amans had made a deposition, and that I had confided to him being at Bancal's house the 19th of March; that I had also told Edward and Rose Pierret so. At all this I rubbed my eyes, in order to assure myself if I was

punished? Yes, Prefect, the gratitude which binds me has caused my last misfortune: it causes the fury of the public; it renders my justification so difficult, that I can only expect it from heaven. I think I told you, Sir, that I had been brought up in the country; you must have easily perceived that my education has been very greatly neglected; a perfect stranger to what is called etiquette; how must I have shocked you by my conduct, by the choice of my expressions. I never was in the presence of authority; never has man commanded my respect, excepting my father, who does not reproach me, I hope, with having failed in it towards him. Pardon pardon, Prefect, in favour of the intention. Do not repeat to me, that *my sole aim has been to make sport of you.* Of what monstrosity do you suppose me capable? Was there ever seen such a compound of artifice and duplicity?

"I conclude this long letter: I send it in the hope that you will burn it, that at least it will only be read by you. There are some things—Ah! if I was not a mother! Never!—no, never!—— Prefect, you are far from knowing my character. Allow me to supplicate you not to shew my letter: it is insignificant trash, a knot of extravagances. Give it what name you please.—What can a head almost distracted produce? Believe, nevertheless, that I shall always preserve reason enough not to lose the recollection of so many bounties. Will you accept this assurance, as well as that of the sentiments of respect, &c.

"E. MANSON."

really awake; and I asked if all Rodez had lost their senses, or if it was myself.

"The 14th of August the court of Montpellier arrived. The Day of our Lady, there was, agreeable to custom, a grand procession.—I placed myself at the window to see it pass. I had mounted up to the second story, in order not to be perceived; notwithstanding I could not escape the looks of the Prefect: he raised his head and I met his eye, in which I thought I read reproaches. The next day my father sent M. Lautard * to tell me that this latter was to conduct me to the Solicitor-general, and to desire me to be in readiness at eight o'clock. I answered that I would be there. An instant after I received an invitation from the Prefect for the same hour; it was then that I wrote the letter No. X.† in which I men-

* Acknowledged as his son.

† Why has this letter, No. X., been suppressed in the proceedings?—It has not appeared in a single information.

No. X.

"Sir,—I am grieved to be unable to accept your invitation; I could have *wished it exceedingly*. I have been several times to-day tempted to write to you, to demand five minutes' audience. I was restrained by the recollection of the air of irritation you showed yesterday. I am obliged to be this evening at eight o'clock, by my father's order, at the house of a gentleman, whose name has escaped me, I believe that he lodges at M. Mainier's.

"To-morrow, Prefect, at one o'clock, if that hour suits you, I shall have the honour of seeing you, doubtless for the last time.—To-morrow is the precursor of the terrible day. My letter, you say, has touched you—Great God! there still exist then feeling minds—I am not then abandoned by all nature!—Ah! though there

tioned to him my visit to the Solicitor-general, and was ignorant that it was to be a secret.

"M. Juin de Siran is a chevalier of St. Louis; he received me with all the politeness possible, telling me that M. de Lairolle had spoken much to him of me; he added that my *charming voice* was famed at Montpellier, and finished by speaking to me of this terrible affair, which gave me no great desire to sing. He put many questions to me, and used a vast many arguments with me to prove that I was at Bancal's, and that I ought to acknowledge it. I assured him that nothing on earth should make me declare a falsehood. He took his leave of me, begging me not to speak of our interview; but he was too tardy in this step, I had written it to the Prefect, without reckoning on my being followed in the street by Constans, the ex-commissary of police.

"Next day my father desired me to come over to his house; I went there with my little idol. I found Victoire all in tears. My father asked me if I was still decided on denying every thing; I answered him I was. He spoke to me of my confidential communication to Victoire. I assured him that it was solely

should be but a single being in the world, who might interest himself in my fate, I could still love life. How have I been deceived!—all the world—yes, all the world deceives me, and wishes candour from me. Pardon me, Prefect—pardon me—I am wandering; my heart is ulcerated. I have passed a horrible morning—I will tell you—yes, I will tell you—you will pity me, I am sure of it. The more I reflect on my affairs, the less I understand them—I have not studied Machiavel.

"Receive, &c.

"E. MANSON."

at the earnest entreaty of this woman, several times repeated, that I had told her what I had *deposed* at the prefecture, which was not the smallest secret — 'But,' said my father, 'will you not stand to this deposition?' I answered in a tone so firm, that I would not, and that they should sooner snatch away my own and my child's life, that he became furious, and drew near to strike me. Victoire came to my succour, but it was little Edward who must see and hear it; he set up loud cries and wished to fight with his grandfather, if I had not hindered him from it.— He told me afterwards that he would not return again to see papa, who treated mamma Clarissa so ill.

"My father was in such a passion that, to appease him, I again submitted, and promised him every thing he wished. He told me he was going to the Solicitor-general's, to impart to him my intentions, and that I must be careful what I was about. I told him to make himself easy, and very soon went away, leaving Victoire more dead than alive.

"In the evening I was desirous to see the President; and, without imparting my design to any person, I repaired to the house of M. de Cabrière, where he lodged. It was five o'clock. A servant maid told me that the President was gone abroad to dinner, and that besides he would see nobody. I protested that I was no relation to the accused.—'Ah!' said this girl, 'perhaps you are Madame Manson?' 'Right.' 'In that case the President will receive you; I am sure of it.' 'How do you know?—I told not a soul that I was coming here; and myself knew nothing of it an hour ago.' 'It is all the same,' answered the

maid, 'you will do the President a pleasure; I have heard him say something respecting it.' I requested her to come and fetch me at eight o'clock; she accordingly came, and introduced me into a handsome apartment, where I found a woman in M. Grénier's service. She talked with me of the cold which prevailed at Rodez.*

"After a short interval the President was announced.—I rose, and was much disconcerted at seeing the Prefect also; he had a very animated air, and appeared to believe that I was about making a confidant of the President. He told me that in every view this magistrate was well worthy of my confidence, and that he was going to leave us to ourselves. I answered him with much vivacity, that I had no secret to impart to the President which might not be heard by M. d'Estourmel. I conjured him to remain; but he quitted us, assuring me that all that he had said to me was for my own interest, and that he could not conceive how I should extricate myself from the gulf into which I had precipitated myself by my denial.

"I remained alone with M. Grénier.—He at first treated me very severely; and, feigning to believe that I refused appearing in court, he threatened me with being conducted thither by the gendarmerie.—I told the President that, although I had nothing to declare before the court, I should present myself there, and that I knew obedience to the law. He

* It was then the month of August.

spoke to me of my father, whom I had reduced to despair. I was not astonished at his severity when I was aware that he had seen my father; I nevertheless placed my situation before him as well as I possibly could. As I spoke I perceived that the President was softened, and regarded me with a less angry air.

"They came to announce M. de Plantade and M. de Lunaret.—I rose to depart, when M. Grénier asked me if I should have any objection to seeing these gentlemen; I replied none at all, and resumed my seat. The President imparted to the two judges all that I had told him; he mentioned to them the persecutions which I had undergone: 'in short,' said he, 'Madame is in such a state of exasperation, that she wants to force M. Clémendot, the pistol at his head, to speak the truth; and, if he resists, wishes to blow his brains out.' I had said this to the President; I acknowledged the fact in presence of the two other gentlemen. I spoke to them with so much force and energy, that their confidence was staggered. I had such an appearance of truth, when I protested to them that I never was at Bancal's house, that they concluded by believing me. I told them that I was delirious when I made my deposition at the prefecture; but that the sight of the scaffold should not make me deceive justice.

"The President told me to calm myself; that, after all that I had just set before them, I ought not to be even heard; but that that would not depend upon him; that he did not know what the Minister for Public Affairs and the Civil Party would do. He

seemed to feel for me; and, after having passed two hours with him, I withdrew. It is thus that my first interview with the President passed.

" Next day (the 18th) I was in court; but I remained in the witnesses' room. On that day they were employed in empannelling a jury, and in reading the indictment; this day was a very uneasy one for me; I was assailed by a crowd of people who said to me, 'Reveal the truth then—what are you afraid of?—Can you take part with these villains—they are the horror of all France—you alone would save them.'

" I was beside myself on hearing these words. The common people regarded me with contempt, the better class turned away their heads, in order to avoid seeing me, or rather looked at me with an air of pity. Such is the condition in which your unfortunate daughter found herself in the witnesses' room, the first time that she appeared there. Madame Castel came and spoke to me, saying:—'Take care, cousin, how you assert your not being at Bancal's, the 19th of March: you are going to prove yourself a liar; there is a witness present, who deposes that on the 20th of the same month, Madeline Bancal brought a bonnet to her to make up, which a lady had given her, and she finds that the stuff is of the same pattern with one of your gowns.—'That is possible,' said I, 'when I buy a gown, I do not take the entire piece; others may have the same taste as myself.'

" Madame Castel, for more than two hours, made use of the most wearisome arguments to me, to prove that I ought to acknowledge having been in a house

of prostitution, pretending that I should not be a less honest woman on that account. 'All the world,' said she, '*will commend* you.' I either heard her, or I did not hear her.

"At last, they permitted us, at five o'clock, to retire. It was time: we had gone there at ten o'clock. I suffered the crowd to disperse. Madame Castel proposed to accompany me, which I accepted; but she retained me a moment to see the accused pass by. I did not know Bastide. I could not well examine his features; he walked very fast. It was not the same with Jausion; he crept along and sought my eye; he fixed my regard with so significant an air, that I made no doubt that this look demanded something; but I had not the talent of divining it.

"Next day the witnesses were called. I had never in my life entered the hall of justice; at the moment when I appeared I was so troubled, that I saw nothing but two gentlemen who commenced smiling as soon as they first perceived me; by their easy and contented air, I took them for jurymen; but what could I imagine, my dear mother, when passing near them to follow the steps of the other witnesses who took a direction to the bottom of the hall, I saw that they saluted me, and I recognized *Bastide and Jausion.*

"Of all the emotions I have experienced, this was, perhaps, the most violent; I precipitated myself into the crowd. I perceived that the politeness of the accused could not fail being remarked; all eyes were fixed upon me. I saw that they destroyed themselves, and destroyed me also. I held my sum-

mons in my hands. I have since been told that I gnawed it, and I believe it. I was actually enraged; I was choked; the blood flew into my head; if I had not gone out, it would have suffocated me.

" Madame Castel and others did not fail to tell me that the accused had taken off their hats to me, and that every body knew it.—Eh! My heavens, I knew it also! We returned into the witnesses' room, waiting our turn to be examined; but though my number was a very distant one, I expected to be called every instant; it kept every body there; I was, they said, an interesting witness! and I knew nothing. M. Clémendot passed near me: he had an air so insolent, that I again formed the very serious project of blowing his brains out before the court, the jury, and the public. The sight of him had produced such an effect on me, that the blood gushed out of both my nostrils. I forgot to tell you, that I had in the interim, learnt that Edward was desirous to fight him; but very luckily, the generals had been informed of it, and that they had taken measures to prevent the duel which I feared. I wrote a long letter to the Provost, to impart my fears to him; he had the goodness to repair to my house, where we chatted on this subject for a considerable time: he removed my fears, at least pending the trial; my brother having given his word of honor, not to appear at Rodez as long as the proceedings lasted.

" But I had calculated, that as Edward had not fought for a considerable time, he must grow impatient, and that the pretext being more than sufficient, he would take advantage of it. I had considered, that

if he came off conqueror, it would be a criminal affair, which would oblige him to abscond; if he was conquered, my lot would be still more frightful. After this, I said to myself, ' M. Clémendot is not worth the trouble of my brother's dirtying his hands with him; he must perish *by the hand of a woman;* I shall perish also, but I shall inflict punishment perhaps on a perjured witness. For myself, my action shall have enough true witnesses, and they shall have no embarrassment in judging me.

" Such are the ideas which that day assailed me; I paid no more attention to all that was said to me, but I ruminated with ardor on the means of procuring myself a loaded pistol. To go to a gun-smith's would have created suspicions; and then, ammunition was necessary, and I knew not the manner of employing it; the quantity even, I did not recollect. I had no sleep for a single minute of the night; I was in a sort of delirium.

" I rose very early; I had seen Madame Pons's mantua-maker pass by, and wished to send in search of her; when she entered, to ask me for a gown which I had desired her to have dyed; I told her, to go to Madame Pons, and ask of her for me a loaded pistol, having no doubt that her husband, her brothers, or her nephew, had one. I assured her, that I would not let it off; that not a person alive should know that Madame Pons had furnished me with this weapon: but I exacted from her friendship, that she would send it me as soon as possible. This lady had more good sense than myself, she absolutely refused what I asked of her, but I did not thence abandon the hope

of putting my project in execution. It was then that, losing all reason, I wrote to the Prefect the letter, No. XI,* in which I told him, that he would

* No. XI.—" I have not for one instant been able to doubt of your kindness towards me; you gave me proofs of it yesterday evening at the first president's house, which I shall not forget during life. I saw in your eyes all the excess of your sensibility, and of your interest respecting me and my father, and you have been enabled to believe that I was going to make confessions? What other than M. d'Estourmel has a right to my confidence? You are desirous of my secret; I agree to it; soon shall it be public. Soon, perhaps, shall you repair to the fountain head to solicit my pardon. I promise you every explanation relative to certain phrases which you have deemed obscure in my letters. You shall know the cause of my agitation, stronger yesterday than ever. You shall know my character, which nobody knows, and which I have taken little pains to make known; for if all the world judges me, I judge myself also.

" I passed the evening with the President, M. Plantade, and another judge. I said nothing to them: one word escaped me in a moment of exasperation, which appeared to strike the President; I checked myself. I have been told that I should not appear in court to-day; but as I am summoned, I must be at the challenge of witnesses, at nine o'clock. I shall have the honour of seeing you, when you shall judge of my words: do not despise me, Prefect; believe that I am not worthy of being despised; and your contempt is torture to me. I ask you for secrecy until the very moment in which I shall be permitted to speak to you: you promise not to show my letter. But you will not believe me: nevertheless, I swear that I will tell you the truth. What a horrible night! How slowly the hours seem to creep along to the wretch who counts them: and my child, he sleeps peaceably beside me! I am condemned to lose him; I see it, I cannot avoid it.

" Receive, &c.

" E. MANSON."

be very shortly, *at the fountain head to solicit my pardon.**

"Finally, I returned to the tribunal. I was sorrowfully seated in a corner, when Amans, who on the previous days, had affected to pass and repass near me without saying any thing to me, made me a sign that he wished to speak to me: I followed him to a grand terrace, where we could walk; he embraced me, and told me that he pitied me.—'Well and good,' said I, 'I excite then still some emotion in you: I thought that you had forgot me, and that my face even did not recall me to your recollection.' I reproached him respecting his *important deposition*, and asked him, from whence he had drawn his materials for making it. He assured me, that he had never asserted that I had told him that I was at Bancal's. I believe it well, replied I, otherwise, the Cleobolus of the department would deserve to be lodged in bedlam.

"Amans told me that his testimony signified nothing; that he had even given it with regret, and that M. Lavergne was the cause of it. I told him to impart to me the tenor of his deposition. He told me that respecting one circumstance, I had asked of him, 'If you were at the murder, what would you have done?'—Well, and does this prove that I was actually there?' We had often started this question with my mother, and other persons: some said, I should have

* These words of Madame Manson were not explained until now. She meditated revenge, which would lead to a capital punishment: here is the secret of this species of prior solicitation, which has not a little contributed to making it supposed, that she had some participation in a crime already committed.

defended the unfortunate Fualdes: others said, I should have cried out for help: others, I should have died of fright. Must one thence imply, that all those who have spoken thus, may have been at Bancal's. He spoke to me in the sequel of Bousquier's deposition; but I have carried my reflections on this subject too high.

"Your nephew appeared to me convinced that I was at Bancal's house, and that I owed my life to Jausion. He used a vast number of arguments with me on the subject, which you have seen reported in the information, as well as his decision upon the *oath*; but all this was very useless to me, who was not in any of the cases in which he supposed me.

"After I quitted Amans, the five young men, to whom M. Clémendot had spoken at the coffee-house, approached me; they were Captain Palmier, M. Dejean, M. Julien, called *Berjou*, Messrs. Ginesti and Palsou. They assured me, that in their deposition there was nothing offensive to me. That they had effectually hindered M. Clémendot from holding any discourse to my prejudice; that a thousand reasons might have carried me to Bancal's; that there were washerwomen there; that nobody suspected I had an assignation; that I had only to speak: that I should rid the earth of these monsters; that they would carry me in triumph through the town.

"It was Ginesti, who said this to me, and who further called to mind those national feasts, in which a woman represented Truth. I replied to all this conversation, that my intention was to speak according to my conscience; but that in order to make myself

better understood, they must lend me a loaded pistol, because I was afraid. One of them promised me one; but I did not require it of him. The next day my anger had subsided; religion and reason returned; but this last did not long dwell with me.

" The morning of the next day, I again went to the President; I spoke to him of the imprudence which the accused had been guilty of, in saluting me in the court. I told him that it had made me mad; that every body was persuaded that I protected Jausion, and that he had saved my life: 'but you knew nothing of it?' 'Nothing, Sir; I swear to you that I knew nothing of it.' 'Compose yourself then, child, you are desperate, indeed.' I wept and wrung my hands. He told me that I might reproach Jausion with his effrontery in saluting me, and even through him address such questions to him, as I judged proper; he persuaded me to take courage.

" M. Grénier, my dear mother, is an excellent man: in the affair of M. Fualdes, he has evinced admirable impartiality; every one has not done him justice. In quitting him, I went to the Prefecture to withdraw the letter, which I had had the extravagance to send there, the Prefect was unwilling to return it to me, he demanded an explanation of it from me. I made him importune me a little, and then I told him, in troth I wished to kill M. Clémendot, in order that Edward might not kill him.

" If you know M. d' Estourmel you can judge of the air with which he listened to me: he ridiculed me and kept my letter, which has been printed and read by all France, and which nobody can explain.

" The Prefect made me enter into his closet, where I found Victoire; who appeared to me to have been put to the question; but, in spite of the chagrin which possessed me, I had all the difficulty in the world, to refrain from laughing, on hearing the conversation of the Prefect with this woman. She wished to speak the French tongue, but fright, and the fear with which her interlocutor doubtless inspired her, made her say such droll things, that the bare recollection of them makes me laugh still in the prison of the Capucins, where I have been for more than two months, and where I laugh but little.

" Victoire had seen Gustavus the day that he played the important scene with me, at my father's: she told him that it was incredible that I could deny being at Bancal's house, since after having deposed it at the Prefecture, I had told her so. Gustavus repeated this to my father, which was worth this pretty confrontation and its consequences to me. My father also told the Prefect that he felt more anxious about nothing, than sending in search of Madame Redoulés; and here we have doubtless the history of a famous witness in a criminal suit.

" Nobody shall say, fountain, I will not drink of thy water. Who would have told me six months ago, that I should quench my thirst so often at that of the Capucins. I persuaded Victoire to go away, and when I was alone with the Prefect, I anew entreated him to return me my letter; he was not willing ever to consent to it. I then took leave of him, and on retiring, told him, when I am in court Jausion's face will lengthen, he would rather that I should be the

woman shut up at Bancal's, but I, perhaps, shall cause her discovery. I again passed the entire day in the witnesses' room. I had seen M. Blanc des Bourines with Charles Colrat, who is also summoned, as having made an appointment with me at Bancal's; but this poor young man was not at Rodez on the 19th of March.

" M. Blanc was walking with Charles. I believed that he had found the means of entering into our room, and that he was in the number of the curious: he came and set down one afternoon near me, and said to me, 'Good God, Madam, how I pity you, how will you extricate yourself from this affair!' 'I know nothing at all about it,' said I, 'but I will assert no falsehood before the court.

" I forgot to tell you, my dear mother, that Amans, during our conversation on the previous day, had told me, that for a considerable time the rumour was circulated at la Montagne,* that there was a woman at Bancal's; that the names of *Manson* and *Enjalran* would be compromised in the affair of M. Fualdes. 'You bear both names,' said my cousin to me, 'and here is Ariadne's web. But this web, far from aiding in extricating us from the labyrinth, has only made those who have followed it, wander still more, and Madame Manson, born an Enjalran, is not the daughter of Minos.'

" I asked M. Blanc, who often goes to la Montagne, if he had heard what my cousin had repeated to me, spoken of: he told me, that, two months since, he knew all the story of what M. Clémendot had done to

* A portion of the ancient province of Rouergue, thus named.

me. He then leant close to my ear, and told me, Madame Pons reckons much upon you. I assured him that she was under no obligation to me; that I should speak the truth, as I had promised her. M. Blanc had a very embarrassed air; he passed two hours with me, after which he quitted me.

" About nine in the evening, I learnt something very important, but I dare not tell it to any body. M. Fualdes's son was the only one in whom I was able to confide. I had seen this unhappy young man the day of our Lady: whilst I was at my window he was passing in the street; my heart told me that it was him. I felt my tears flow at the sight of him; he cast a look of contempt on me: let him have read evil in my thoughts. He believed me paid by the murderers of his father.

" I wrote to M. Fualdes, that I had something most essential to communicate to him. I carried my letter myself at five in the morning of that day, so fatal to the accused, since the jury pronounced a verdict of Guilty against them. A servant took my letter, I recommended it to his care; I had written the day before to my father, you know in what terms.

" Weary of hearing it said, that M. Enjalran took an interest in the accused, and stopped his daughter's tongue by his menaces, I wrote that famous letter which has made so much noise; sure that it would be read in court, and that I should justify my father in the eyes of the public.*

* " I beg my father to tranquillize himself: he will be satisfied, if it is really true that he takes no interest in the accused; as to myself, I have strong proofs that he does not take any in them; yet I am

" In going from M. Fualdes's I passed my father's house; he was still in bed, but he did not sleep: he reflected on this extraordinary letter, of which at the first blush, he demanded an explanation from me; I told him that he would one day know it. He declared to me that he was going to carry it to the President. I replied that he was the master. In fine, as he wished absolutely to know what I should say before the court, and that I made no answer but 'the truth, nothing but the truth,' he grew angry, and I escaped without its being possible for him to retain me.

" Returned home, I found there the Prefect's porter, who begged me, on the part of his master, to repair immediately to the Prefecture. This surprised me, but I was much more astonished, when I found M. Fualdes's son in the Prefect's closet; the latter asked me if I wished to be alone with M. Fualdes, to which

distrustful after all that has happened to me. I am decided on striking a grand blow: all the Court is going to be astonished. I will speak the entire truth, the wretches shall perish, and such— burn my letter:—if it was suspected, all would be lost; the counsel for the defendants would take their measures. Every thing was cleared up to me yesterday, and nobody can doubt it. Above all, let not the first President intimidate me; if the blood mounts into my head, as yesterday, at the summoning of the witnesses, I should be able to say nothing. I shall require all the necessary presence of mind, and I should wish, if possible, to be warned some time before appearing.

" You have given me your curse; you desire my death; you refuse me succour: I am going to lose the only one which I could expect, for M. Pons had shared her bread with me: it matters not, you are my father, and your daughter is disposed to sacrifice every thing to you, and will never lose her tenderness and her respect for you—take care of this letter."

I replied in the affirmative, and the Prefect withdrew.

" The presence of the unfortunate person whom I had opposite to me, penetrated me with the most painful emotion. I knew his suspicions, he believed me sold; he asked me what I had to say to him. I charged him to warn his counsel to take care that there should be no motives for repealing the proceedings; he appeared to pay little attention to this advice. Great God, how far was I from imagining, that the advice which I gave him, was soon going to make me anxious that these fatal proceedings might be annulled.

" M. Fualdes wished to obtain from me, the avowal that I was present at the murder of his father, and that I knew the authors of it; he told me that I was, perhaps, about being confronted with a witness who would confound me: I asked him, if there was really any one who would depose that I was in Bancal's house on the 19th of March: he replied, 'that that was the key to the whole affair.' 'Ah! well,' said I, give me this key, why do you distrust me, I am more in your interest than you think.' Then, M. Fualdes, with an air of settled sorrow and of candour, which penetrated me, said, 'No, Madam, there is not a witness who can prove that you were present at the assassination; but I do not doubt that you were there, and that you were acquainted with every thing.'

" He spoke to me of my connexion with Madame Pons; I assured him that this lady would not make me deceive justice. They had doubtless spoken to him

of my passion for my son; he enlarged greatly regarding him, and seeing that his recollection softened me, made me foresee the lot which I prepared for him. M. Fualdes has in his manner, something energetic, much more easily understood than described. He perceived the effect which he produced on me, and stopped me when I wished to go out. 'Madam,' said he, 'pity a child who demands vengeance for the murder of his father; you know the assassins, and you will not name them; one of them saved your life, but is he on that account less infamous? Jausion will be condemned to the galleys, but that is not enough, he ought to lose his head; he is more guilty than Bastide—it is he who is the author of the conspiracy; I think I see him plunging the fatal knife: I was seized with secret horror the first time that this monster presented himself to my view, after the horrible catastrophe which deprived me of the best of fathers.' I was senseless. 'You believe them guilty, are you thoroughly convinced they are so?' I repeated. 'Oh, Madam,' M. Fualdes said to me, 'you alone have the air of doubting it, you alone would save them; but no, I deceive myself, a powerful, and by you a respected authority, hinders you. I believe that you comprehend me.'

"A mortal chill took possession of me; I saw that my suspicions were well founded, my head grew disordered; I became like a mad person; I said, 'you believe them guilty: Well, they shall perish; you shall be revenged.' I have little recollection of all that he added during two hours that our interview lasted. I know that about ten o'clock the Prefect re-

turned with the President, to ask me if I wished to be heard this day. I immediately replied, that I was not in a condition to be so; but M. Fualdes, who saw me in the disposition in which he wished me, insisted on it so much, and the two other gentlemen joined themselves so earnestly with him, that they determined me on appearing in court at two o'clock.

"I remained again alone with M. Fualdes during some minutes, and I must do him the justice to say that he asked nothing from me but the truth; but he was so convinced, that his conviction passed into my mind, and produced the most terrible effects in it.

"When I left the Prefecture, I had a wild air; I must have frightened the people who met me. A woman who saw me passing, said to a soldier: 'cannot you give this villanous woman some blows with your musket? perhaps she will then speak the truth.'

"Such, my dear mamma, is the discourse which was held in my presence. Arrived at home, I drank two dishes of coffee, which failed in killing me. For a vast many nights I had not slept; my blood was on fire. I dressed myself. The President had advised me to adopt the remarkable costume, that I had when he saw me the first time; I followed his advice, and put on a black gown with a white frill round the bosom, a black hat and veil. It is, doubtless, by means of this accursed veil, that some of the accused thought they had recognised the woman of the closet; but then I was not so well instructed as I am at this day.

"I repaired to the court, and went into the wit-

nesses' room, waiting till they might summon me: I was in a state well worthy of pity: want of sleep, sorrow, the *conversation of the morning*, and the quantity of coffee, had actually so irritated my nerves, that I trembled, and could not support myself. The recollection alone makes me still tremble to such a degree, that I have difficulty in holding my pen. My God! what will become of me at Albi, before the court of Toulouse? You know, my dear mamma, how little effort is required to frighten me; I am alarmed on hearing the cry of fire. Now that you know, that you can appreciate what has preceded the sitting of the 22d of August, you will be less astonished at what passed there.

"At two o'clock, a bailiff came to call me. I followed him. My situation could only be envied by a person that was conducting to execution; I was as pale as he could be. I will not depict to you what I experienced when I saw myself on the witnesses' bench. On one side, the imposing retinue of justice, that of crime which environed the accused, *my entire conviction* of their culpability, the ferocious looks of some of them, the profound silence that reigned in this immense hall, the attention of the public which filled it, and which expected the revelation of an important secret—the suspicions of this same public against my father—the sight of the unhappy son of the victim whom it was necessary to avenge—finally, the image of Christ, which I had before my face, and which recalled to me my duty: so many united objects, so many tumultuous ideas—I could not resist them, I fainted.

"But in regaining the use of my senses, I did not re-find that of my judgment! I recollect but one idea which incessantly pursued me. I constantly thought that I saw a bloody knife suspended over my head, or plunged in the breast of my son. You know the rest, my dear mamma; you have perused the informations; and as often as I read over again the details of this fatal sitting of the 22d, I ask myself, 'is it, indeed, you who have pronounced all this? Could you possibly have done and said so many wild extravagances?' In going out of the court, I was conducted by Amans and M. Hippolite de la Gondalie; we went to Madame d'Ornes; I found Eliza there, who advanced towards me with a pouting air, and appeared to be afraid of embracing me. 'Oh!' said I, 'if you do not wish it, you are going to lose more than I.' I do not recollect if she embraced me, I know that she proposed to me a private conversation, in which she wanted to force me to confess to her that I was in Bancal's house. 'You will be very cunning,' said I. 'But,' said she, 'I have almost certain proof of it.' 'Yes, you have always proofs of what never exists; you are so often deceived, that you ought to correct your suspicious character.' I however followed her into a room, where she amused me with an absurd tale, which struck me so little that I have forgotten it.

"I had afterwards a long conversation with Amans, and I brought him almost to believe that I was not present at the murder. In fine, after having passed three hours at Madame d'Ornes, I returned into

my room, where I found the general with many officers of the legion of Var; they placed a guard for my security, as they told me; but I believed, and I still believe, that it was to fortify me against the attacks of certain emissaries and distributors of letters. The military remained a long time at my house. An officer told me that Jausion, on entering the prison, had said, 'I am lost, this woman has been my death.' Another told me, that M. Romiguière would abandon the cause of Bastide, if I added a single word; and I, that thought always I had said nothing, because I recollected nothing! At last, M. Belcastel entered, and sat down near me, saying, 'Clarissa, for I please myself in still giving you this name, hear the advice of a friend: why do you obstinately endeavour to conceal the truth? It is no crime to have been at Bancal's; I assure you that there is none of our ladies who will be ashamed to be in your company, if you will render society the service which it demands: speak, speak, and I will give you my countenance to appear in the town, which I should not do if you keep silence; in short, my brother, the Marquis de Bournazel, is coming here this evening to your house, to engage you to unveil this frightful affair.'

"It was assuredly a great honor that these gentlemen did me; but whatever price I might attach to their favor, I could not act against my conscience. Victoire, who saw that I had three centinels, and who still thought me badly watched, came to sleep with me; we neither of us had any sleep. I was again to be heard the next day. The general came

to carry me to the court: but, as I was not dressed, he left an officer of the legion, who waited for me, and gave me his arm.

"The sitting of the 23rd August was very tempestuous for your daughter; the interest which I had inspired the day before gave place to the most profound contempt. The women who had shed floods of tears on the Friday, would have spit in my face the next day; on that day, the accused and their counsel had regained a little courage; in going out, M. Flaugergues reconducted me home, and remained with me. He said the most soothing things to me. But you know him, my dear mamma; you know of what delicacy he is capable; he told me to choose the person in whom I could place the greatest confidence, to intrust him with my secret, and to conduct myself after his advice; that, even in justice, he would not be obliged to unveil what I should intrust to him. I thanked him; I assured him that I had nothing to say; and that if I was in the situation in which he supposed me, I should not have far to go to find a person who would most merit my confidence. He quitted me, and I had still a centinel during the evening.

"The next day, Amans entered into my room, 'you are,' said he to me, 'an astonishing woman; I have seen a letter which you have written to the president, I know not from whence you draw your ideas, but there are some of them sublime; you express yourself, in speaking of gratitude, like the greatest masters.' 'You flatter me,' said I. 'For the rest, I believe that with a little care, they might have render-

ed me a little less foolish than I am. 'Thus far,' said Amans to me, 'your character is good, take care you do not spoil it.' 'If you continue to suppose that I was at Bancal's,' said I to Amans, 'I know not what you can find so good in me.'

"'When a woman cannot make her sex's virtues shine in her,' replied my cousin, 'she ought to endeavour to acquire those of a man; I believe that is what you have done, you are not on that account less amiable in my eyes.' 'Listen to me,' said I, 'if the truth discovers itself, as I hope it will, I shall be more interesting than the vile woman of the closet.'

"Amans quitted me, I disposed myself also to go to the Court. My little child wished to follow me, I consented to it. At mid-day, when the sitting was suspended, according to custom, and hardly any body remained at the bar, but some persons that were coming and going, the little boy said to me, in a very low voice, 'Mamma, Bastide has quite the appearance of having killed a man.' I asked him, if he knew him, 'Oh!' said he, 'I believe I know him, he is near the woman dressed in black, and the short gentleman—that must be him.' He was not deceived, the morning of the next day, Amans entered my house with an air of consternation, 'what is the matter with you?' I said, 'How you have abused me! how you have seduced me! I could have believed you for an instant. I could have believed that you dealt fairly. I had raised an edifice which is just tumbled to its foundation; you say, you were not at Bancal's house? Very well, I know the person who gave you the meeting there.' 'You are very clever;

but you must make me a partner in your great discoveries, in order that I may rejoice at them also.' 'I do not laugh,' said my cousin to me, 'and I have passed the most horrible night; I am almost as wretched as on the day when my poor father expired in my arms—you are lost: I could wish not to have known you. I yesterday saw Blanc des Bourines, I questioned him, and his embarrassed air, his ambiguous answers, fully proved to me, that he knew more of it than he chose to say; do not go and concert with him, for I shall know it.'

"I begged Amans to be easy; I told him, that I did not see that my situation was more desperate than the day before; that all the world believed me the woman of the closet, and that I should be thought so always until the truth appeared; your nephew quitted me a little less agitated.

"Some days afterwards, I saw M. Flaugergues, who appeared touched with my situation, and disposed to give me every assistance to extricate me from it. I spoke to him of the bonnet given by a lady to little Madeline, on the 20th of March. He advised me to go myself to the Almonry, to ascertain the stuff of which this bonnet was composed. 'Perhaps,' said he, 'this will lead you to some happy discoveries.' I wove the cloth of the winding-sheet which must envelope me; I told M. Flaugergues, that I would follow his advice. Nevertheless, I had in some degree lost sight of this affair, when a person seated near me in court, said to me: 'a young lady has just been summoned, perhaps she will give us some insight into this:' another person added, the moment

after, 'we are going to see a woman appear, who is said to have been at Bancal's house; her lover has spoken; it appears, that having repaired late to the rendezvous, he found the gate shut.' You can imagine, my dear mother, the effect that this discourse made upon me; I was inclined to throw myself on my knees, and exclaim: 'Oh, Providence! you have taken pity on me' I turned towards the first person who had spoken to me; I put some other questions to him. He apprised me, Miss Pierret had just been designated to the President, as knowing a great deal respecting the affair of M. Fualdes; on a sudden, I called to mind, that it was she who had so well instructed me regarding it, on the 23rd of March. I recalled all our conversations on this subject; I recollected that Madam Constans came to my house one day, after the departure of Rose, and that she had told me, that the intention of the latter, was to remain in the country all the time that the proceedings respecting M. Fualdes should last. I passed many days in reflection; they waited with impatience the arrival of Rose in Court; each day she was announced, and never did she appear. I was told, that she had been ill since I was summoned, that she had found herself unwell, on hearing the words reported, which escaped me at the sitting of the 22d August:—*nobody pities me!* all this confirmed me so much the more in the idea I entertained, that Rose was the woman in the closet, but it was a very different thing in the sequel. I called to mind the advice of M. Flaugergues, and determined on following it, I begged Madam Castel to send me the

mantua-maker, who had made Madeline Bancal's bonnet. She came instantly, and informed me, that they had sent her a sleeve of a taffety spencer, of a dark colour, to make the bonnet; that they had taken away all the remnants, but, that if I would come to the Almonry with her, perhaps we could see this bonnet, and she should be sure to recognize it. We then went there. As this woman was known to little Bancal, she first presented herself; I remained at the gate; she returned in an instant afterwards, to tell me, that Madeline had sent the bonnet to her mother, who had caused a black one to be sent to her, on account of the mourning for her father. I had this child called, she came; I looked earnestly at her, and said to her, 'I come from the Court; your mother has confessed every thing, she will save herself; as for you, who do not wish to speak, they will send the gendarmes to take you up: I have demanded your pardon, hoping to bring you to speak the truth.' Madeline looked at me, my air made an impression on her; I asked her, if M. Fualdes was not killed at her house; she answered yes, and gave me the details which we knew. I asked her, if there was a lady at her father's house during the assassination. I promised her a crown piece, if she could be the means of my knowing her; she then said, that the woman was veiled; I lifted my veil entirely up, and said, *look at me, am I this woman?* the little girl answered me, that she had not seen her face, because her veil was very thick, descended down to her knees, and was black. Remark, my dear mother, that all this conversation took place in the presence of the

mantua-maker, who did not leave us. With what openness have I acted, and it is this has ruined me: one must have somewhat of Machiavelism in the age in which we live; without it who can flatter himself with succeeding?

" After the circumstance of the black veil, which I thought I so well understood, I wished to know no more about it; I took Madeline by the hand to conduct her to the Prefecture, but the Syndic opposed it. I went in search of the Prefect; he came to me with a napkin in his hand, and his mouth full; it was the hour of his dinner: I imparted to him my discoveries: he begged me to return to the Almonry, where he would instantly repair. Indeed, he did not make me wait long; he came, accompanied by two gentlemen, who I have since learnt, were the Sub-Prefect of Espalion, and M. Bonald de Milhau, the younger. The Prefect, as well as these gentlemen, questioned little Bancal as to the lady of the closet; she made almost the same story which M. Clémendot recounted to me on the night of the 27th July. The Prefect demanded of Madeline if this lady was of my height, and begged me to stand up; the little girl answered that she was not quite so tall as me, and *infinitely fatter*.

It was almost night; little Edward demanded my care; I begged the Prefect to allow me to withdraw, but he persuaded me still to remain a short time. He went out in order to go, as he said, and apprise the President of what had passed. I then remained with the two other persons and Madeline, who, once ...hed out in the career of revelations, could no

more stop herself. The Prefect soon returned with four gentlemen whom I could not distinguish, because it was night. I thought however that I recognized the voice of M. Plantade; I took leave, and M. de Lastic, Sub-Prefect of Espalion, gave me his arm to reconduct me to my house. It is inconceivable that I should hold a conversation with him from the Almonry to the Rue de Touat, and that I should afterwards not have recollected him in court, where I have seen him several times successively, seated opposite to me, and employed in designing my portrait. He came and spoke to me at the sitting of the 8th September: I have constantly asked, who was the tall gentleman who accompanied me on the day that I was at the Almonry. It is only in prison that I learned to whom I had this obligation.

" I already thanked God for having saved me from shipwreck; I believed the tempest was appeased, while the storm was over my head, and the thunder was about to burst forth. I made a fervent prayer, and laid down. I anxiously waited the morrow, hoping to obtain an ample justification. I wrote a letter to Amans, of which he comprehended nothing, he told me; doubtless this was the cause that he paid me in the same coin; his answer was algebra to me; I preserve it as an enigmatic monument.

" I returned to Rodez at an early hour, and repaired to Court, always hoping to see Miss Pierret appear there; but I still expected her in vain. On that day I wrote to her towards evening, and had my letter carried by my hostess, who gave me an account of the effect which this letter produced upon

her: I understood that she had wept, that she could with difficulty speak or walk, and that she finished with saying, that she did not know what Madam Manson wanted.

"My letter was simple: I begged Rose, if she knew any thing respecting the murder of M. Fualdes, to say it; and to extricate me from the horrible situation in which I was. I received no answer.

"By the effect of a destiny, constant in persecuting me, of that fatality which unceasingly pursues me, I found myself placed in Court, near an advocate of Albi, a zealous friend and great admirer of M. Romiguière, having made the journey to Rodez, expressly to take part in his success in the grand cause which he was going to plead. This young man oftentimes addressed me, in order to tell me handsome and flattering things. I first thought that he was the man who had given me his arm, the day that I was at the Almonry; he suffered me to believe it, and I should still be persuaded of it, if he had not at last undeceived me. He made use of the pretext of a letter, with which he was charged by one of my brothers, and he came to pay me a visit; sometimes even he accompanied me as far as my house. He went early to the Court, in order to be able to procure himself a place near my chair, which was guarded by a private centinel, near those of the officers of the legion: I was the only witness who had a chair, all the rest were placed on benches. I know not why I had so many privileges, for they were very much dissatisfied with me.

"The young advocate always spoke to me very

loud, and manifested, without putting any restraint on himself, the interest which he took in the accused: he expressed himself on the subject with the greatest candour, pretending that they would be acquitted any where but at Rodez. He was far from perceiving the consequences of his words: I told him, 'take care, or you will be stoned; keep your opinion to yourself, otherwise you commit me.' Indeed I was followed, spied, listened to. What I had foreseen came to pass: they imagined that this advocate was an emissary of M. Romiguière, and they were more and more convinced of my understanding with the accused: in consequence, after some days, M. Rous, surnamed the *rich*, a merchant of Paris, who often sat near me, and who had overheard the discourse of young Albigeois, sought a quarrel with him, and threatened to lodge a complaint against him in Court. The next day, the chief of squadron of the gendarmerie came to tell him, without any ceremony, to change his place, to leave Madam to herself, (speaking of me) that she knew what she had to do, and that, if he continued this kind of conversation he would arrest him. The advocate did not dispute the matter, he did nothing more than entreat.

"You remember, my dear mamma, that you wrote to me, that, if I had not an exact acquaintance with the murder of M. Fualdes, I ought to demand the liberty of speaking, in order to detroy a conviction founded on my conduct at the sitting of the 22d; and that I ought to hinder a judicial murder. I followed your instructions; I wrote to the President

who had me summoned into the Council-chamber.—I imparted my fears to him: he answered me in two words, that the court would not refuse to hear me before the close of the proceedings. I found his manner very severe. You know that I was summoned the 8th of September: you know how I covered myself with shame in searching out the truth. Rose denied having known me before the month of July; she denied having ever spoken of the affair of M. Fualdes to me; but she did not assert this falsehood with impunity; she trembled in speaking, and left many people persuaded that she was not telling the truth.

" Madame Constans had just exhibited the most ridiculous scene; her husband had dreamt that I had said that I was at Bancal's; and this woman, sooner than contradict him, set up a show of blubbering, hesitated, and for ever convinced the court, the jury, and the public.

" Two days afterwards I was told, from Amans, to repair to Olemps; Edward was arrived there, and was to communicate some important matters to me: it was your celebrated interrogatory; to which I answered, I hope, to the extent of your desires.

" I thought I perceived in my brother an extraordinary air; and, as all the people who wear this air are thought to be well informed in the affair of M. Fualdes, I made no doubt but my brother might know great things. He, however, swore to me that he knew nothing. Madame Rodat was very cold with me; as to Eliza, she had given me a specimen of her contemptuous air; but, as it is not my custom to

make advances to people who draw back, I left my cousin, and discoursed with her brothers and mine.

" Your god-daughter, they tell me, is married; I hope that her husband will never enter Bancal's house! Eliza told me one day that her attachment for me was very solid; but that I did not love her in the same manner.—' I know,' said I, ' that, provided you were assured that I was interred in consecrated ground, you would be very much consoled in learning my death; it is not the same with me—every one has his manner: for example, if they had just told me that a woman, for whom I had a strong attachment, was found in a house of ill-fame, I should not believe this news on the first report; I should require satisfactory proofs, and would not deal harshly with her, to make her confess it to justice; especially if she had certified me that the fact was false.' I learnt of Amans all that the little Bancal had told me; he recommenced his doubts that I was at her father's house on the 19th of March, and told me that he would come and assist at the sitting of the next day. Edward appeared to me sorry for the scene which had taken place during that of the 22d of August, when I had assured him that I had no acquaintance with the murder; I said to him, without entering into all the details which I have here given to you, that I had not been mistress of myself. I again repeat it to you, my dear mother: justice may punish my conduct, but it would not know how to make me repent of it. What I have done voluntarily I thought it my duty to do; for the rest heaven will not demand an account from me of this imposture.

" The President treated me so ill, that I had not power to say any thing in my justification. My letter to my father, as well as his to the President, were read at this sitting, and produced an effect contrary to that which I had expected from them: at last, grown desperate from perceiving that they did not listen to me, I provoked the Attorney-general, in order that he might form his conclusions against me, as he had announced.

" I had written to M. Fualdes, that he had but one way of discovering the truth; that he must have me arrested, and that then perhaps the wretched woman, shut up in the closet, under the alternative of saving an innocent person, or of suffering the guilty to perish, would not hesitate.

" I judged for myself, my dear mamma; I had also another end; I thought that if I did not succeed in discovering the truth, I should at least annul the proceedings, and should not have to reproach myself with having caused wretched persons to perish, with whose guilt I was unacquainted. The Civil Party displayed more artifice than myself; the Attorney-general placed me under the eye of two gendarmes; but that was only for an hour, and whilst I was still in court.

" However we arrived at the moment of pronouncing judgment; I saw the blood of Jausion and Bastide flowing; I heard the cries of their wives, and their children. This image pursued me incessantly; I constantly said to myself, ' you alone have caused them to be condemned!'

" Jausion looked at me and seemed to say to me; What have I done to you? Why do you wish for

my head?' His wife cried out: '*Madam, have pity on my children, you are a mother also, you love your son so much!*' Oh Mamma, put yourself in my place, what would you have done?'

"The 12th of September I underwent a new temptation; I had the air of being provoked by M. Romiguière, and I called out, '*all are not in irons, and the truth may not proceed from my mouth.*' It was this that conducted me to the Capucins; but two days too late.

"You may suppose that I was not in court to hear the sentences of death. I passed a horrible day. In the evening, at the approach of night, I held up my child, who looked through the window on the people who were passing: on a sudden I saw a man who was walking very fast, and held a large knife perfectly naked. I thought that he was coming to cut off our heads; I rushed towards the door and doubly shut it. All the night I saw myself surrounded by blood; it appeared that my bed was bathed with it; I threw myself upon the cradle of my child, I believed him dead; the movement which I gave myself awakened me.

"The next day, Madam Lacombe told me, 'some disaster will happen in this house; for two nights past I have dreamt of nothing but blood; my hair stands an end.'—'Do not tell me that,' said I to my hostess, 'I have the same dreams.' She answered, that hers were always realised.

"The 14th of September (of happy memory) a bailiff came to serve me with a warrant; I received it

with the most perfect indifference. I first repaired to the court, where I was interrogated; from thence I repassed to my house to take my child, and went to prison.

"I was to occupy the chambers which the ladies Jausion and Galtier had just quitted; but my jailer answering for me, kept me at his house. I subscribed to every sort of arrangement; at that moment all was equal to me. The Prefect came in the evening; he put me in mind that he had predicted all that had befallen me; that it was my pleasure to destroy myself. The mayor entered a moment after; they took all possible measures that nothing might be wanting to me. They wished that I should have a room; but as the wife of the jailer seemed desirous to have me, I said that I was very well off, I had every thing that was necessary for me. Indeed, what did I want? My son partook of my lot.

"I passed fifteen days, without scarcely a thought that I was in prison; during the night I suffered much, I had continually fever, accompanied with delirium; I uttered horrible cries. Once it appeared to me that the woman Bancal had poisoned you as well as my son; another time I saw Bastide, in a state of frenzy, reproaching me with having caused his condemnation; I was in his power, he was going to avenge himself. I often saw the accused on the scaffold. One night, they came and rapped roughly at the door, and cried, '*open!*' the jailor instead of opening it, ran to look out of the window, I thought that we were lost; I took Edward in my arms; I had determined to

perish. At last I learnt that it was a malefactor whom they had taken, and whom they were conducting to prison.

"My husband who had never troubled himself about the child, who has come into Rodez above twenty times since I dwelt there, without making any inquiry about it—but who had understood from the publicity of the trial that all my solicitudes were for this child, bethought himself of snatching it from me, at the moment when it was more precious to me than ever. They informed me at the same time that you wished to see it; I decided on sending it to you, as he was content when he knew that his uncle had come to fetch him! However, when I embraced him, and he perceived some tears which I made vain efforts to restrain, this inestimable infant commenced weeping, and returned into my prison, forgetting every thing in order to console his mother. My reason got the better, I separated myself from him.

"I was far from foreseeing that his absence would be so long and so painful! It was when I found myself alone, that I discovered I was a prisoner. The veil was fallen, the talisman was broke. I have the misfortune to be a fatalist; I persuaded myself that the presence of my son would preserve me from every evil; he has at least the talent to sweeten them, and to make me support them.

"When I heard the gates reclosed, which it did not depend on me to have opened, a deadly coldness seized me: I fell on the pavement; I know not how it is that my skull was not fractured. They came to my succour, they wished to recall my son, but I op-

posed it. I passed a painful day; it was followed by many others.

"My husband caused to be signified to me a suit for separation of body and goods, and demanded my child; we were twice heard by M. Bertrandi as referee; you know his odious conduct with this estimable man.

"The Prefect seldom passed a week without coming into my prison. I saw also twice the Provost, and Madame Delauro,* who did me a thousand kindnesses; she sent me books, and the newspapers. One day General Despérieres brought a sheet containing a letter addressed to a certain *Dornac du Rosai:* this letter was signed *Pauline Engelrand;* they made me say a heap of things which I do not recollect, for I only read it once; I solely recollect these words: *My only desire is to regain the friendship of my father; I will soon unite myself with my Adela in the abode of peace;* and in speaking of the assassins: *they are powerful—they are numerous. Oh! the Monsters—Infamous house of Bancal; they shall know that you have never possessed me.*

"This letter was very long, and has puzzled the readers; I assured the major-general that not a word of it was mine; that I was not called *Pauline,* and that I knew how to spell my father's name.

"I often saw people at the jailer's, but I spoke to nobody, except in his presence; yet I was informed of the news; I learnt that there were great reasons for annulling the proceedings, and I began again to entertain some hopes of it. One day I was informed

* The mayor's wife.

that Jausion, after having heard his sentence read, addressed himself to the woman Bancal, and to the other accused, and had challenged them to declare if he was present at the murder. The moment was terrible! he greatly exposed himself if he is guilty. They added, that he particularly addressed Missonnier, who not being condemned to death, could profit of his offers; and that, on returning into prison, he had again said, 'Madame Manson ought to be arrested, and then she would speak the truth.' What does this unfortunate wretch then wish with me? Does he believe that I was at Bancal's house? and not having been there himself, does he invoke my testimony? Or rather, not having seen me, does he wish that I should maintain that I was not there? In this last case he will be satisfied.

"The more I think of this horrible affair, the more I lose myself. I am perhaps the person who sees the most obscurity in it; and I pass for having the key of the whole. After having made an exact recapitulation of what I had seen and heard in this trial, I have made many conjectures, which I have entrusted to no person. *I preserve these things, and repass them into my heart.*

"When shall we meet again, my dear mother? I no more put confidence in any body; for no consideration in the world would I be in the secret of the murder; they would finish by drawing it from me, and I should perhaps not be long in repenting of it.

"The proceedings were at last annulled; and soon afterwards I was informed that it was said, that Madame Manson had done it. It is not that I think the

accused will get themselves off at Albi; but they have discovered new witnesses, and it will not be myself, who know nothing about it, who will cause them to be condemned. I shall be easy on that score. You know all the reports that were circulated at my father's expense; in vain have I wished to parry the blows directed against him; in vain have I sacrificed myself. I am myself lost, and have only given more audacity to his enemies. The reptiles of l'Aveyron have vomited their venom. Cursed race! shall the world never be purged of you? My father knew the accusation which was prevalent against him; he never spoke to me of it, but he knew it; I read it in his eyes, in his gestures, in the convulsions of his despair. He was told that I had gone to Bancal's house, and he believed it; and his love for justice and truth carried him above the prejudice which condemned his daughter to obloquy. My father believed me a witness to the murder, and he wished to make me confess it. Hence the persecutions which he made me undergo, and which, according to malicious people, had another end.

"My father, who worthily filled his place in the magistracy, who was always the terror of criminals when he was their judge, is accused of being the support of the assassins of M. Fualdes!—of even being their accomplice!—a man who, by his delicacy, has disdained to enrich himself during the revolution by means which many people, reputed honest, have not regarded as illicit; a man who has braved this revolution, to such a degree as not to wish to dissemble his opinion, at a time when he saw

himself a prisoner, deprived of his property, the axe suspended over his head—this same man should become all at once a robber, a cowardly assassin! No, he has not suddenly turned a froward character; he does not abjure, at an advanced age, the principles which he gloried in possessing.

"What avails it to have led a life without reproach, to have acquired a spotless reputation, if it depends on some malicious beings to blacken it? Ought one to expect, after having filled a long and honourable career, to descend into the grave covered with ignominy? May my father triumphantly come forth from this struggle! Let him confound his calumniators, a thousand times more dangerous than the monsters to whom I have compared them. In short, let the whole weight of misfortunes light upon me.

"I never can revenge myself upon my enemies; Heaven will take this care for me. I had four of them; they were powerful: two are dead without relief and without repentance: the third fell from a precipice, and his fall has loaded him with infirmities for the rest of his days; the fourth has lost his liberty—who knows what awaits him? It is better to be the oppressed than the oppressor.

"My recital is finished, my dear mother; but suffer me to converse with you; suffer my pen to flow at hazard on the sentiments which I experience. In my captivity, it is my sole alleviation, my sole consolation. Does any one wish to inspire interest at Rodez? let him get himself condemned to death. The receipt is infallible, but I shall not make use of it. One cannot form an idea of the rage of the inha-

bitants of this town against Jausion; he was the most infamous of wretches; he alone was the author of the murder of M. Fualdes; it was he that struck the first blow; he ought to be cut to pieces. But the sentence once pronounced, I heard them chant their recantation: 'Poor Jausion!' said one, 'they have judged him too severely; they had not proofs of his guilt.' 'What will become of his poor wife?' said another? 'And his poor children?' 'A father of a family,' cried this one; 'how I regret him!' At last they learn that the sentence is annulled, and they cry anew—'*To death with him!*' This is the world, my dear mamma.

" It is with almost all the inhabitants of l'Aveyron as with the climate: it freezes here three quarters of the year; but as there are some fine days, so there exist also some sensible and good hearts. I have known how to discern them in the multitude; I have known how to appreciate them; their name is for ever graven in my memory with the recollection of their kindnesses.

" In order to understand me, they should say that I was born in one of those fine regions which the Tiber or the Arno water. I dare stand a trial in my own country, which has been said to have so well judged me. It is an impartial posterity that will render me more justice; it is to its tribunal that I appeal; it will annul the sentence of my cotemporaries.

" With what infernal spirits have I been surrounded! They have pretended that I was sold to assassins! I hope that this calumny has found credit but with persons themselves capable of similar vena-

lity:' their opinion little affects me. There are souls, I repeat it, worthy of adoration in the universe. May I merit their esteem, and testify to them with warmth, all my gratitude; the wish of my heart will be fulfilled.

" I return to my situation: I had learnt in prison that the little girl Bancal pretended that I was the Lady of the Closet, and that she had recognized me. As I know that they fabricate news at Rodez, and that the more they are displeased, the more credulous they are: I gave myself very little trouble about this rumour. Nevertheless, the Prefect assured me that it was true, and that he had it from Madeline herself, who had assured him so at the Almonry, a short time after I had gone out of it, on the day of her important discoveries; and that she had added, that I had promised her a crown piece, in order that she might declare she did not know me.

" So much falsehood on the part of an infant of ten years of age surprised me; but in spite of the assertion of little Bancal, I should easily have justified myself in a country where they were less prejudiced than at Rodez; for what probability is there, if I was really in this famous closet, that I should have myself gone in search of the only witness who deposes to this fact, and that I should have taken every possible means to make this child speak, whom no person had been able to persuade, either by promises or by threats, to the least confession, and who adhered during five months to the most rigid denial?

" Madeline had heard mention of the entire history of a woman, locked up in the closet of her father's

house, and she repeated it. The first day she spoke of only one lady; now, after her last deposition, there should have been *seven* women in her house on the evening of the 19th of March. Madame Manson was in the closet, into which they forced her to enter; and on this demand from her, what she had done, and why they put her there? They answered, 'you will know it.' Afterwards, there were three other ladies, one of whom had black feathers, another green feathers, and the third a bonnet: she named her mother, Anne Benôit, and another girl whom Bousquier speaks of. The history of the green feathers is a mystery which they wished to ascribe to Miss Gipson, who is, I believe, the only woman who wears feathers of that colour. This English lady was at the Almonry to question little Bancal; and one of the gentlemen who accompanied her gave Madeline her lesson to puzzle Miss Gipson. I have this fact from one of our Judges, who is not less persuaded that all which concerns me in Madeline's deposition is not very conformable to the truth.

"I have been confronted with this child: she had said, the first time, that she only recognized me by the voice; and on our being confronted, it was by the face: if we meet again, it will perhaps be by the turn of my wit. She has again spoken of the green feathers, and this fact is recorded in her deposition. As for myself, I had a black veil, which descended below my knee, and a red gown. I left the closet while the wretched Fualdes still breathed. I sued for mercy for myself, and I pronounced, with my hand upon the corpse, the most horrible of oaths.

Jausion then took me by the hand, and conducted me as far as the wells of the square of Cité. This is one of the depositions of little Bancal.

" She said another time, that I had entered into the closet dressed as a woman, and that I had come out of it in man's cloaths. Why so ridiculous a disguise? if I had put on the habit of a man, it would have been in order not to be recognized in the streets.

" However absurd may be the deposition of Madeline, it has been adopted throughout. I perceive, my dear mamma, that my folly is become contagious. They have just told me that the woman Bancal had also asserted in prison, that I was at her house on the evening of the murder. I'll wager this is not true, and that it is a fictitious witness who reports this fact. Bancal, with whom I have been confronted, about fifteen days ago, reproached me with having said that I had been in her house, when I had never set foot in it; and that I saw myself forced to acknowledge the contrary. Besides, if there was a lady in the closet, Bancal, who had introduced her there ought to know her; if she did not know her, how could she assure herself that it was me? she could not confound my visage with that of another: I have not one of those faces that one meets with every where.—It is only in my glass when I am opposite to it that they may see something which resembles me; and if they sell my portrait at Paris, as I have been assured, and pretend a resemblance, it is an arrant counterfeit.

" The gendarme Monteil has pretended, that

at the sitting of the 8th of September, Bancal had said, in speaking of me, that I always denied having ever been at her house: *let her say so, she was there sure enough.* This woman was at the moment called upon by the President, and she asserted not having said this.—Here is the way in which she expressed herself; she said, '*if she was there, let her say so;*' which is very different. M. Grandet, the defender of Missonnier, heard the discourse as it was held, and repeated it to me. Besides, why should Bancal have retracted the same minute? I spoke to her of this again when I was last confronted with her.—She told me she had expressed herself in the sense which M. Grandet had reported to me. It is certain, my dear mamma, that they have lately told me such extraordinary things, that I often know not what to answer; I open my astonished eyes, and play the part of Sosia.

" I am sometimes pleased to identify myself with the *individuality* of Bancal's house, which is not however the *individuality* of the Capucins; for one runs into the field, and the other is behind villainous grates, and a treble door. I torture my mind; I make a thousand conjectures which destroyed each other. I stop however at this last, which appears to me the most reasonable: it seems evident that there was a woman at Bancal's during the murder. The party of M. Fualdes verily believe that it was me; but be assured that the opposite party is convinced that I know nothing about it; and that it thinks, by its investigations, to shelter itself from suspicion.

" I do not wish to occupy myself any more about

it: I am become weak on this subject: I here lose all my faculties: I have scarcely any more memory or understanding; nothing remains but a will, which, if it was free, would soon conduct me to the arms of my tender mother, and my beloved Edward.

"I have often seen people here; Inspectors-General, Prefects, officers of every rank, and curious people, who come expressly to see Madame Manson; and who return, doubtless, little satisfied. You know, my dear mother, that our Prefect intimidates me much: I long believed that my embarrassment arose from the conduct I observed with him. When he speaks to me, I am so foolish I can scarcely answer him. He came one day with M. de Cazes, the Prefect of Albi, brother of his Excellency, the Minister-General of the Police. Your daughter had on that day a double fit of awkwardness. It was impossible for me to articulate a single word so long as these gentlemen remained in my prison. The discourse which M. de Cazes held with me, was little likely to make me regain speech; he told me 'one of three things:—you will be pursued as an accomplice, as a false witness, or else shut up as a mad person.' See precisely how it happened that *your daughter became mute.*

"I remained petrified; but that was not all. M. d'Estourmel charged my jailer to tell me something which this latter could not make me comprehend: I thought that the Prefect of Albi wished to speak to me; in consequence, I wrote to our Prefect that I was always ready to hear M. de Cazes, and should think myself much honoured by his presence. I had doubtless, written in the style of a school girl; but as

I have no more the appearance of one, I did not stand excused. I was told that my letter extremely shocked the Prefect of Albi, who had answered, 'it is done in a trice.' I racked my brains to comprehend what this meant to say; I could not arrive at it. It is always perfectly clear that my design is not, was not, and never will be to deceive any person. I shall, nevertheless, pay dear for an involuntary fault; the least which can befal me, will be to die with fear at Albi, on seeing M. de Cazes.

"After having passed two months in the jailer's house, where I was ruined, because my expenses exceeded my income, I demanded a room and obtained it. By a singular chance I occupied the cell of the famous *father Chabot*, where so many horrible conspiracies were framed; the ladies Jausion and Galtier had inhabited the same apartment during their detention; but they were less to be pitied than myself: they mutually consoled each other; they had a child; they had no gratings. You will know, mamma, that I am indebted for those of my windows to the gallantry of my jailer, and to the care which he takes of my health; he pretends that I am so cunning, that there is no means of trusting me, and that if I had a mind to see my Edward, a height of thirty feet would not stop me; and that I should descend by the casement at the risk of breaking my neck.

"He is always afraid of committing himself; he fears especially that I should have letters pass unknown to him. I have almost a mind to write to M——, solely to prove to him that *bolts and bars*— it is useless to finish it, you know the rhyme. There-

is nothing that makes me more impatient, than to hear it said to me unceasingly; what are you doing here? break your chains, it depends upon yourself. Can it enter into a reasonable head that a woman, (and a woman of my character), remains for pleasure in the cell of a Capucin? one must have a very singular taste! 'Go your ways,' say they, 'your place is not in prison.'—'Oh!' say I, 'it is seldom in this world, that any one occupies the place which suits them; I shall always have this advantage, that nobody will come to dispute mine with me.'

" 'A pretty honour,' says another to me, 'to see you at Albi, on the bench of the accused, seated between Bastide and Jausion?' 'Ah, well! Is not our Saviour placed between two thieves? and their crimes were doubtless proved otherwise than by the testimony of some nervous attacks.' The Jews did not know what the *vapours* were; so I doubt if Mesmer would have made his fortune amongst them. A propos, do you not know that they wished to try magnetism with me, in order to make me tell *my secret?* but as this operation was also a secret, and as nothing is done secretly at Rodez, my *magnetising* has been adjourned.

" No, my dear mamma, nothing is done secretly at Rodez, except the murder of the unhappy Fualdes. I tremble at the idea that perhaps some innocent person will be sacrificed. What a horrible mystery! If I am included in the accusation, I wish for no counsel; I should be sorry to owe my safety to his eloquence. I will myself plead my cause; and after having acquired the appellation of a singular witness,

the public will perhaps call me still more singular as an accused person.

"You know, my dear mother, the system of a modern author, your dear countryman,* a great metaphysician, a more astonishing logician, who refuses to allow women a reasonable soul; but as there is scarcely an animal whose *instinct* does not lead him to defend himself when he sees himself attacked, I am going to endeavour to make use of the feeble means that nature has given me for that purpose. I will answer him some day, and if they accuse me of having been *divorced* from good sense, I will console myself with the idea that I am not the only one.†

"I have just made an amiable acquaintance, it is a young man from Paris, who has had the kindness to come and see me in my prison; he has much wished to take charge of my Memoir, and has pushed his complaisance so far as to travel over eight leagues of our country to carry it to you; without him I should not have had the means of bringing this voluminous epistle within your reach.

"I am very little inclined to secrecy, and not a line of it goes out without being verified by the Minister for public affairs, who has the oftenest made profit of it at my expense; but all that does not correct me, I write every thing that comes into my head; and whilst they are deliberating on the liberty of the press, I give every latitude to my pen.

* Monsieur de Bonald.

† Monsieur de Bonald has written a book on Divorce.

"Mr. Clémendot is confined in a fort. It has been reported here, that he had written to me, this is still a new proof of the coin of Rodez. The letter which I have received, and which is said to be from him (as if there was nobody but M. Clémendot who knew how to write) is from that M. Lamire, of whom I have spoken to you, and who is assuredly a little more polite than the aid-de-camp of M. de Wautré.

"I am going to perish from ennui; here is the end of my memoir, I have nothing more to do, my embroidery fatigues me, and does not distract my thoughts. I have almost entirely lost my voice. They will no more compare me to saint Huberti!—I can no longer sing, and I have besides but little relish for it—what a state of incertitude!—It is near three months since I was arrested, I do not yet know if I shall be brought to judgment.—What will they do with me? I have not killed M. Fualdes. I did not know that they wanted to kill him, I should have told him so very soon. Yet I have undergone twelve interrogations, three of which have lasted eight hours.—I do not take into the account my conferences with the Prefect, and those with my father, where shall I leave them then: I have lost the account of them.

"Last Thursday, the council assembled here, to decide on my fate. I am ignorant what are the conclusions of the King's Attorney, and the judgment of the court; but, my God! they do not judge here in the last appeal: the proceedings which concern me, must pass through the hands of the Attorney General of the court of Montpellier, from thence they will

again go to Toulouse, and then they will be sent to my Lord Keeper of the Seals. I am just addressing a petition to his Excellency; judge how it will be received; I a poor country-woman, who have passed my life amongst geese and turkeys, to take upon myself to write to a great lord.

"I repent of it at this very moment: my letter will not even be read.* These are nearly the terms in which it is conceived; 'My lord,—will your Excellency deign to permit, that a wretched prisoner should dare to address herself to you, and may she hope to be favourably received by you? Will the chief of justice be offended, if I come to claim it from him, in order that it may be rendered to me? I am without protection, my lord, without defence, without support; and my sole recommendations with your Excellency, are in your own sentiments of humanity and love for the public good.

"I am ignorant what language one makes use of with the great; I am accustomed to speak that of the heart. The minister of a Bourbon cannot be unmindful of it: I ought not to employ any other with his Excellency. There is no example, in the annals of justice, of a witness so persecuted as myself. The trial of M. Fualdes is an obscure labyrinth, the thread of which every body has demanded from me, and

* Madam Manson opines badly of the ministerial solicitude: the idea that she occasioned perhaps some actual embarrassment caused by the legislative discussions has awakened her distrust. We have had the honour ourselves to deliver in a private audience, her letter to my Lord Keeper of the Seals, who read it with feeling and with interest.

every body knows as much of it, and many perhaps more, than I do. I am tormented by the two parties at once. That of M. Fualdes cries for vengeance, and accuses me of wishing to save the guilty; and the contrary party, well aware that I shall say nothing, because I know nothing, assails me still more vigorously.

"I am a victim, sacrificed I know not to whom; I am not aware of my enemies. No, my Lord, I am not the woman that was shut up at Bancal's; and by a chain of circumstances difficult to believe, I have been brought to say that I was this woman; such is the nature of the fears which I have experienced, such is the impression which they have produced upon my mind, that I have preferred to pass for an infamous prostitute, sooner than to see them realised.

"Let not your Excellency reproach me for my conduct at the sitting of the 22d of August; if the proceedings had not been annulled, I should have myself offered my head—it ought to fall. It matters not that my crime was involuntary; the consequences of it would have been too dreadful, and I am a striking example of the dangers of conviction.

"If your Excellency knew all the proceedings of the fatal sitting of the 22d! If you knew in what state was the unfortunate person who has the hardihood to address these lines to you, and to implore your commiseration! I am accused at present of being an accomplice in the most horrible of crimes; the testimony of my conscience re-assures me, death does not alarm me, my Lord; I have known how to brave it in 1793; I was then very young, my parents

were arrested, I partook of their lot, and if they had perished on the scaffold, I would have mounted it with them. In the situation into which I am fallen, death would be a relief to me; with it would finish the terrors of life. But to lose liberty, to live for ever separated from all that is most dear to me, to be deprived of the embraces of my son!—Ah! my Lord, if you judge me guilty, do not punish me thus, you could not invent a more dreadful sentence.

"I will go, if it is necessary, into a remote country, to hide my sorrows, not my remorse. I leave riches to those who make much of them, there is but one blessing for me; I hold it from nature, it should depend upon her alone to deprive me of it. Let your Excellency design to excuse the despair of a mother. I am alone in my prison; horrible grates, triple doors separate me from the rest of mortals, and they repeat to me without ceasing: 'your fate is in your own hands, it depends on yourself to break your chains.' What do they wish to make me say? that which I do not know, that which I felicitate myself on not knowing.

"Oh! take pity on me, my lord; they have threatened to send me to Paris: had it pleased God that your Excellency had wished to take the trouble of occupying yourself with my affairs, and of hearing me, I would not have spoke but the exact truth; ought I to expect being sent to the *Inquisition*, under the reign of the best of kings? and you, my lord, the worthy minister of his will, should I in vain implore your justice? may my voice penetrate even to your Excellency: all the world is ignorant that I have

taken the liberty of addressing myself to you, but for that I should not have offered to your sight such bad penmanship as mine. I dare hope that you will pardon me, as well as the boldness with which I have expressed myself, and that you will have some consideration for my just complaints.

"Accept, my lord, the homage of the most profound respect and of the highest consideration."

"Oh! my dear mother, if I could see his Majesty Louis XVIII. and the august daughter of the unfortunate Marie Antoinette and of Louis XVI., whom we have so often wept for together! The 21st of January is always most sorrowful to me. I can never forget the anniversary of the most dreadful of events.

"I am just tracing some verses on the walls of my chamber; I certainly should leave some marks of remembrance to my successor; I invite him to arm himself with patience, it is a thing with which one cannot dispense here. I forewarn him that the grates are of new iron; the door triple; that both are difficult to pass; that one finds here neither files or chisels; for the jailer is a *prudent man.*

"The trial of M. Fualdes will be judged, they say, the 5th of February: that is, two months hence. The proceedings will last fully another month. It is now two months since I saw my son, which will make it near six. This is speaking to me of eternity itself. Every evening I say to myself, 'a day again passed and lost to happiness, since I have not embraced my Edward.' Life is so short, all its moments so precious; and we are often condemned to pass a part of it far from the objects which are dear to us. With

what passion have I desired to have children. I recollect having said one day that I should like better to have a dozen of them, than not to have any: and this title of mother causes all my torments! It is happy to be void of nice feeling: one has few enjoyments, but one is not sensible to pains; and how greatly do they exceed the number of pleasures!

"I often see little children of the age of mine passing by, but it is not my Edward. A sorrowful foreboding sometimes tells me, that I may see him no more; my dreams represent him to me always dead or dying—yet a good God knows well that I cannot support this misfortune. This idea reassures me.

"I have his cradle constantly near my bed, but he is not there. Amiable little creature, if we never meet again, what will be the power that can separate us?

"You shall no more reproach me, my dear mother, with sleeping too long: I lie down always after midnight, and do not sleep till about four o'clock in the morning, and yet rise early. I have every night a fit of fever: they wish to give me medicine; but I do not incline to take any remedy; and I would distrust Hippocrates in curing me: they will not destroy the evil, so long as the cause exists. The sole specific for mine, would be the sight of my son, and my liberty.

"I have gained one thing in prison; that was just; I have lost so many others in it: I have no more fear of ghosts; you shall not laugh at me any more.

"The fair of December must have been very fine;

I have seen a vast number of people pass on the great road. Nobody has come to see me to-day. I wished to purchase a drum for my little boy; I have not had any opportunity to do it: but I shall send one to him.

"How many obligations have I to you, my dear mother! I owe you my life, and that of my son. Without you, without your tender cares, my Edward would not exist, he would have died before having seen the day.—And now again, that he is suffering and wounded, that by an imprudence he was very near breaking his arm;* what would become of me, if I did not know he was under your eyes? Ah! if nature has produced some monsters, she has formed also sensible souls, which make us forget them.

"Adieu, my dear mother; make the little angel pray for me. I call to mind always with much emotion, a prayer which I heard him make in the church of our Lady; he did not think that I was paying attention to him, and he said; '*my God, grant me the favour of being a very wise man; heal mamma Enjalran, and take away sorrow from mamma Clarisse.*'

"How can one prevent adoring so interesting a child, and particularly when one is the mother of it? But, my poor Edward, he will be unfortunate. The fatality which pursues me, attaches to all whom I love, to all who take interest in me. I am more terrible than Pandora; I spread abroad all kind of evil, and have not a hope.

"Adieu, my son, my sole blessing, my only con-

* The child's arm was actually sprained by a fall, during his mother's captivity.

solation; adieu, my good mother, I take leave of you. May this memoir serve to dissipate your thoughts! may you find in it some alleviation of your pains! my Edward will read it one day; but he will never have an idea of the torments, which he has caused to his unfortunate mother: the heart of man does not feel these things like ours.

"Melancholy possesses me: the future offers me nothing happy; above all, if I judge of it by the past. I am just demanding a priest. I perceive that my courage abandons me: there are moments in which I lose sight of my religion: I forget every thing, except my mother and my child."

NOTE.

We think it our duty to place here for those of our Readers, who, since the annulling of the trial at Rodez, have not followed the detail of the divers incidents of the new proceedings, a rapid exposition of the principal facts.

Immediately after the pronouncing of the sentence, which condemned to death Bastide, Jausion, Colard, Bax, and the woman Bancal; Anne Benoît and Missonnier, to forced labour for life; Bousquier, to one year's imprisonment, and a fine of fifty franks; Madame Manson, having a warrant served on her, was arrested, and conducted to prison on the 14th September.

It is in a religious commonalty, in the cell of a monk, too famous for his revolutionary excesses, that the time passed, which separates the assizes of l'Aveyron from those of Tarn. The suit instituted against her, as suspected of false testimony, has been followed up by the cares of M. Bertrandi, one of the judges of the Civil Tribunal at Rodez; this wise and skilful magistrate, has known how to associate in his communications with the prisoner, the rigorous obligation of his ministry, with those considerations of condescension and humanity ordained by her sex, and her sorrowful situation.

The Tribunal of Rodez, having taken cognizance of her suit, the papers respecting the proceedings were sent to Montpellier, about the 28th of November last, and this Court decided on the 7th of the following month, that Madame Manson should be judged at the approaching assizes at Rodez.

An act of the Supreme Court has decided it otherwise: the Moniteur of the 21st December, publishes the following detail.

" A decision of the Royal Court of Montpellier, imputing to Madame Manson the charge of false testimony, had ordained, that this lady should be brought before the assizes of l'Aveyron. The

Attorney General being provided against this decision by the statute of the Judges, has demanded that the affair shall be brought before the assizes at Albi, looking to their connexion with the accusation relative to the murder of M. Fualdes. The Court of repeal, in the criminal division, on the report of Mr. Buschop the counsel, and the arguments of M. Giraud, the advocate general, has accepted this demand, and sent back Madame Manson, before the court of assizes at Albi."

During the course of these successive events, the suspected persons upon whom the most heavy charges of the accusation seem to weigh, have made an effort to withdraw themselves from justice. We shall make an abstract of a letter, which was addressed to us from Rodez, at the time by our correspondent.* This letter was also printed in the 346th number of the Gazette of France, of the 12th of December.

On the night of the 3rd and 4th December, the twenty-three prisoners confined in the house of the Cordeliers, made an attempt to escape. Jausion and Bastide were the only ones in this prison, who were included in the trial for the murder of M. Fualdes: the rest of their companions are condemned for theft. Bax, Missonnier, Colard, and Bancal, are, as it is known, in the convent of the Capucins.

For a long time past, Bastide assiduously occupied himself in making hampers with trusses of straw, and his wife preserved the power of seeing and of speaking to him, through the grates before the prison.

"Ah! well!" said he, one day to her, "I send you frequently about my work, and propose to continue it." "Do not, however, make hampers, without end," said she, "the house is already full of them." "I will make you, then, a warming basket (a piece of furniture, to dry linen at the hearth). Besides," continued he, "in

* We published under the title of the *Parisian's Stenograph*, in numbers, of a sheet of letter press, with engravings, a correspondence from Rodez, on each event worthy of interest, which has lately attached to this celebrated cause; the fifth number has just appeared, price forty centimes, at Pillet's, at Paris. It may be bought, the price, for 12 numbers, four francs, and fifty centimes at Paris, and five francs for the departments.

N. B. An engraving representing the *Children of Bancal* at the almonry at Rodez, will accompany the sixth number.